

**From:** Fred Moor <fbmoorjr@hotmail.com>  
**Sent:** Monday, March 22, 2010 12:32 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** regulation of retail Forex

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Dear Secretary,

I am totally against the proposed change to allow only a 10:1 leverage for Fx trading limitation. It would make it useless for me to trade and could affect the liquidity of the market. I believe that it should not go lower than 50:1.  
Sincerely Fred Moor

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**From:** Truc Quach <truc.quach@gmail.com>  
**Sent:** Monday, March 22, 2010 12:35 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

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David Stawick  
Secretary, Commodity Futures Trading Commission  
1155 21st Street, NW  
Washington, DC 20581

Regarding: RIN 3038-AC61

Dear Mr. Stawick,

I am writing to voice my position on the CFTC's proposed regulations for off-exchange retail foreign exchange transactions. The proposed regulations offer many consumer protections, and represent a well intentioned plan to regulate what has long been considered the "wild west" of financial markets. Unfortunately I believe some of the proposed regulations will have drastic consequences on the market, and ultimately unravel every consumer protection the CFTC is trying to achieve. Enclosed are my comments on each proposed regulation I believe should not be adopted, or should be modified within Federal Register RIN 3038-AC61.

#### Regulation 5.8 – Aggregate Retail Forex Assets

The proposal to require RFEDs and FCMs to segregate the net credit balance deposited by retail forex customers is well intentioned, but falls short of truly protecting clients funds in a bankruptcy scenario. Segregated accounts offer the only true protection for client funds, as the CFTC points out in this proposed rule. I believe the bankruptcy code should be modified to protect segregated accounts off-exchange as they are on-exchange. Achieving a change in the bankruptcy code would allow the CFTC to enforce real deposit protections by requiring RFEDs and FCMs to segregate client funds. I believe the CFTC should adopt this proposed rule as something is better than nothing, but I'm confident some off-exchange retail clients will misinterpret disclosures related to these capital balances as some form of guaranteed deposit protection.

#### Regulation 5.9 – Security Deposits for Retail Forex Transactions

I am *strongly opposed* to the maximum 10:1 leverage limit. I understand the CFTC's concern regarding the negative effects of high leverage however; leverage is an essential tool for off-exchange retail currency traders. Traders who understand how to manage the risks of leverage through sound money management should not be limited to 10:1. Limiting leverage will reduce the professional trader's ability to maximize the use of risk capital. On a matter of principal, I do not believe it is the role of government to mandate which tool a professional should be able to use.

The National Futures Association has set leverage limits at 100:1, which had already been adopted as standard operating leverage by most off-exchange currency traders. I believe the 10:1 leverage limit is unnecessary as the congressional record through the Farm Bill never intended for the CFTC to regulate leverage. The intent of the Farm Bill was to bring transparency and oversight to a traditionally unregulated financial market, not to crush the future of the industry limiting its leverage ability. Furthermore, the maximum loss in off-exchange currency trading regardless of leverage is drastically less than the currency futures market. I see little or no benefit to leverage restrictions from a maximum loss perspective. I encourage the CFTC to address its concerns about leverage through trader educational programs, or enhanced disclosure documentation for off-exchange currency traders.

I also believe the adoption of this rule will invalidate every consumer protection proposed by the CFTC. Many traders have already moved their accounts offshore in response to the NFA's leverage and hedging actions. If the CFTC adopts a 10:1 leverage restriction the majority of U.S. based retail currency accounts will move overseas. Some overseas dealers currently offer leverage higher than 100:1, and operate outside the CFTC's jurisdiction which renders useless any consumer protections offered in the proposed regulations. I believe the adoption of Regulation 5.9 will dramatically affect U.S. based currency dealers by driving many out of business as clients move their accounts overseas. What we are really talking about with Regulation 5.9 is crushing a \$1 billion dollar industry that provides high paying jobs, and tax revenue, for the sake of protecting some traders from their own ignorance. Traders are already properly disclosed on the risks related to trading on high margin. I stand alongside the Forex Dealers Coalition, the IB Coalition and thousands of retail currency traders in staunch opposition to Regulation 5.9.

I appreciate the opportunity to comment on these proposed regulations. I sincerely hope the CFTC considers my comments, and the comments it has already received from currency traders around the world opposing Regulation 5.9

Kind Regards,  
Truc Quach  
Perth, Australia  
March 22, 2010

**From:** Lahcen Ait Bentaleb <lahcen\_abt@me.com>  
**Sent:** Monday, March 22, 2010 12:38 AM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** lahcen\_abt@me.com  
**Subject:** Regulation of Retail Forex

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RIN 3038-AC61

From: Lahcen Ait Bentaleb in Montreal, Quebec

Hi,

This is to express my opinion About the new changes that would limit regulated Independent Introducing Brokers (IB's), to working with just a single broker. I'm confident on my IB and would like to still be able to open an account with any broker of my choice.

Kind regards

--

This mail was sent via IB Coalition <http://ibcoalition.org/take-action/>

**From:** ANDREAS Papadopoulos <v8power@live.ca>  
**Sent:** Monday, March 22, 2010 12:50 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** CFTC NO 10 OR 100 LIMIT FOREX LEVERAGE No restraint of trade Competition Or choices  
**Attach:** CFTC no limit 10 or 100 2 100319f1123.doc

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secretary@cftc.gov

**CFTC NO 10 OR 100 LIMIT FOREX LEVERAGE No restraint of trade Competition Or choices**

1. I consider CFTC 10 and 100 limits

Prejudicially illegal bias In favor of the stultified behind the times commodities futures businesses [Which CFTC is favoring coming from a **con** To the detriment of the users and firms doing a Good Innovative Needs Wants meeting diligent job in Forex

Illegal null and void Restraint of trade and competition

Violation and breach Of Individual's rights and freedoms especially of choice Life Enhancing opportunities

Breach of contract:

1. No capacity to contract
2. No intention to contract
3. No authorization to contract
4. No agreement to the same thing
5. No sufficient certainty of terms
6. No valuable consideration
7. No legality of purpose

Especially not from us users

Directly contrary to what we want

2. DM Framework

1. What's your biggest Beef With
2. What obstacles are preventing you doing the best job u could be doing
3. What do you think of management
4. What do you like
5. What do u dislike
6. What needs improving

2.1. **What's your biggest Beef With This CFTC proposal?** Limits and Harms us and our opportunities.

2.2. **What obstacles are preventing you doing the best job u could be doing?** 10 and 100 limits --Should be back to what it was before

3. **What do you think of management? 4. What do you like 5. What do u dislike 6. What needs improving?**

1.1 The opportunity for the small money person did not exist before these Forex Mini and micro contract Opportunities providing firms came

1.2 I know there are some what I consider [WIC] SHIT headed assholes who would like to shut this down---

We need to get rid free out of prevent eliminate terminate em those WIC assholes from power control

by any means necessary. --

**1.3 THAT'S WHAT AMERICA IS SUPPOSED TO BE ABOUT FREEDOM NOT COMMUNISM**

Freedom and equality of opportunity for all not just a few Assholes Who Try to hold Or gain the reins of power control Ripoff control EG Wit arrangements with Goldman Sachs and I understand about 14 other Firms Who PAY A FEE To gain access to the cexchange computers Ahe I see this CFTC proposed Limits is just another attempt to do something like that-- limit [SCREW ] the public.

2.1 User surveys indicate Of Those who take the time to learn and educate themselves 86% Succeed do well

2.2

1 good key teacher said

My job as a teacher's to help you learn

what works And

how to do it without gross serious major error .

Your job as a student is to learn what works best for you .

Take the time to learn

what works

what complete methods systems to use

what software

what services

What instruments To use

2.3 The Forex these people have provided With their 100 to 500% margin Was one of the absolute best !

Now some WIC TWITS within CFTC propose to FUCK IT UP!!!!

**Get lost with that said SHIT In the way!**

I'm 100% Opposed To the wic stupid 10 and 100 limit proposals

2.4 [Although those who follow brokers recommendations And don't bother learning how to trade themselves some surveys indicate maybe orders not making sure the client's best interests are protected or providing proper training or trading advice Nor doing the trading for them

3.1 We don't want that --those Assholes Blocking Plucking us [the US ] now by keeping us [Or being held] prisoner hostage Peons To them  
Get rid of them !  
Get us rid free out of prevent eliminate terminate em immediately!

3.2 I see your proposal as just another attempt by an Evil evil power control seeking conspiracy to keep good people down taxes Tax tax us  
Prevent good Health Technologies engineering engines & Power Technologies from coming forward;  
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that's what Your proposals of the 10 and 100 limits are  
illegal null and void restriction of competition and people bringing good things forward and having good things in their lives .

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3.4 Stocks and futures are very expensive places to operate with ir lousy limits **NOT GOOD VALUE** !  
Management principle **IF IT DOESN'T ADD VALUE IT'S WASTE**  
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We wanna see the previous 10 & 100 **LIMIT-US** roll back to allow the full Use of maximum leverage User sees fit And the providers see fit :

#### **4. I SEE THE PROPOSAL FOR THE 100 AND 10 LIMIT AS A VERY BAD THING**

The **WIC**

stupid criminal nonsense That exists with the SEC [and the crimes they've allowed despite being Warned Warning years in advance &  
**WIC POOR & Inequitable VEHICLE PROVIDED BY THE FUTURES** And their Low leverage  
**SHOULD NOT LIMIT AND SHOULD NOT BE ALLOWED TO LIMIT US NOW, PEOPLE & GOOD FIRMS BRINGING GOOD NEW THING**

#### **4.2 The limits in the future industry r the probable source of this nonsense**

**[Oh Gee Why don't we have, just apply the same Lousy Limits to Forex too]**

**WIC Evil vested interests trying to protect their turf from good competition Because they're Losing business and market shar**  
**mafia trying to prevent, restrict competition**

**WELL FUCK EM AND THEIR SHIT**

4.2.2 wic Just a turf war And the CFTC being the **COMMODITIES AND FUTURES TRADING** [Not the Forex ] commission Is acting illegally :  
the commodities and futures business Industries . To try to restrict competition against the new guys on the block Like the mafia the True r  
their minions Placeholder s in office Acting on their behalf to do so.

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**Improperly Illegally- Null- and void -EDLY Acting with prejudicial bias To protect the vested interests of COMMODITIES AND I**  
**and Against the Forex New guys on the block good Future Forward thinking good new ideas ]**

**4.5 We Users totally oppose this prejudicially Illegal bias restrictive limits 10 100 limits proposals**  
**We don't want these limits 10 or 100% leverage**

**Fuck them Get rid of them**

**we want it back to the 100 to 500 % Leverage**

#### **4.6 They The Vested Stocks commodities and futures interests haven't provided users**

**3R's Responsiveness to needs Optimal results Best use of resources**

**Total cycle time from need to fulfillment As short as optimally possible**

**what we need and want.**

**The Forex industry has & does or did -- Let em do it**

**Fuck the vested interests in the stock futures and commodities businesses which these WIC twits In CFTC R Illegally prejudi**

4.7.1 We don't want the opportunities Limited only To the fat cats with a lot of money holding US the US[A] ransom to their rip off.

We don't want To see things as they are in stocks and futures now.

**4.7.2 WE WANT SOMETHING BETTER** As the good guys in the Forex industry were providing before the wic CFTC idiots stepped in to try

**4.8 We won and want opportunity for us as small money people which these wonderful firms have provided are providing Lei**  
**SHIT in the way**

**4.9. NOW YOU'RE wic LIKE COMMUNISM TRYING TO SHUT IT DOWN!!!**

**THE 10 & 100 LIMITS ARE JUST SHIT IN THE WAY.**

**FUCK IT AND GET RID OF IT.** Let them em do leverage as ey were doing before. It was fine Before WIC the mafia Turf protectors in CFTC futures protectors But I do consider some are Especially guys responsible for these 2 10 and 100 limits projectors.  
4.10 I think there's some good people In CFTC & some wic real **SHIT Headed assholes** too **who would seem To want to block and re Headed assholes EY shouldn't be there.**  
**We want only people who provide us maximum good opportunity.**

5. Many think There are powers that be who want this As a prison-planet & most of the people here as prisoners Feudal slaves to them-- th  
as much as possible; Putting money grabbing meters on everything electricity gas fuel Health Care Preventing good things coming forward.  
5.2 That's what I think this stupid proposal is just a part of.  
5.3 It should be prevented eliminated.

**GET RID FREE OUT OF PREVENT ELIMINATE TERMINATE THESE**  
**STUPID LOW LIMIT USER OPPORTUNITIES LIMITING PROPOSALS AND**  
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XXXXXXXXXXXX

**which prejudicial illegal bias and restrictive limits we totally oppose.**

.....  
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secretary@cftc.gov

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Placeholder s in office Acting on their behalf to do so.

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**From:** Dave Wyman <davidgwyman@comcast.net>  
**Sent:** Monday, March 22, 2010 12:50 AM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** cftcfeedback@fxdd.com  
**Subject:** 'Regulation of Retail Forex'

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New limitation proposals seem a bit extreme "**RIN 3038-AC61**" A reduction in leverage limits may be advisable but a 50:1 seems more reasonable.

**From:** bfordacmg@aol.com  
**Sent:** Monday, March 22, 2010 12:53 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** REGULATION OF RETAIL FOREX

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To Whom It May Concern:

RE: RIN 3038-AC61

Please be advised that I am very strongly opposed to changes in the leverage allowed in retail forex. I believe it will destroy forex in the US and create major job losses. It also goes contrary to the right of every individual to decide upon investment risk tolerance for themselves.

Thank You,  
E. Ford  
B. Ford

**From:** tom <tomsebox777@yahoo.com>  
**Sent:** Monday, March 22, 2010 12:57 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex--leverage 10 to 1 proposal

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David Stawick of the CFTC,

Why would the CFTC and the NFA propose that Retail Forex clients put in more money (by reducing leverage) to carry the same positions in an account? You should already know that forex as well as commodities and futures does not offer asset protections to its clients like the SIPC protections afforded SEC stock market investors. So if a firm under your regulatory oversight becomes insolvent or commits some type of theft or fraud and loses our money we basically are ripped off. For you to ask us to put up more money by reducing our leverage just puts us, the client/customer at more risk. You are asking us to put more money into a business framework that doesn't offer us REAL asset protections like SIPC insurance in the stock market.

So please don't ask us to put more money into carrying our forex positions unless you can offer SIPC like insurance protections for our customer funds. Raising the cost of entry into the forex market (by reducing leverage) will not provide customers robust customer protections like you envision. Your proposal will only insure that lower leverage requirements will require us to put more money at risk in a business structure that doesn't offer its customers real SIPC like insurance protections for our assets. Is that really what you want?

And remember this.....why is this an issue anyway??

Retail Forex already had the best trading risk management tool in the business which is as follows:

***When a customers account equity falls below required margin requirements all open positions will be closed automatically.***

This rule in and of itself protects customers as well as the trading financial integrity of all Forex firms engaged in forex retail trading transactions. It's worked well up to this point so I ask you this:

"Why all the concern about lowering leverage in Retail Forex?"

I say "NO" to your 10:1 leverage proposal and ask that you start concentrating on offering us SIPC like insurance protections for the cash that we use to trade, invest and fund our accounts.

If you truly care about your customers, you will realize what I am saying and start helping us instead of hindering us and exposing us to more risk.

RIN3038-AC61

Public comment

**From:** moris amdurski <mamdurski@rogers.com>  
**Sent:** Monday, March 22, 2010 1:11 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

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I am against the CFTC proposal. As a new trader this regulation will or may cause bigger risk. I think that as an adult I can make informed decisions based on education and knowledge. By imposing your regulation of restricting leverage you will destroy my possibility to earn money.

Miriam Amdursky,  
Canada.

**From:** Rob Frelow <dodgev83@gmail.com>  
**Sent:** Monday, March 22, 2010 1:17 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

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Identification Number: **RIN 3038-AC61**

**I am against the change in leverage to 10:1.**

Ignoring all of the claims that this change is being done specifically to help the Futures market (since Futures currently have leverage above 10:1)

Ignoring the competitive disadvantage this creates for U.S. brokers.

Ignoring the fact that people will simply move their accounts offshore.

I find it interesting that the CFTC seems to be pushing the retail market towards Futures, claiming the leverage change is for our own protection. Consider this, the maximum loss in Futures is infinite, while the maximum loss in Forex is almost always your account deposit. Taking this into account, your change will **increase** our risk on at least 2 levels.

1. We will need to deposit more 10-20 times more money in our Forex account to trade in the same fashion we are used to. This inherently increases our risk by a factor of 10-20. A friend of mine lost **\$60,000** when his broker went bust a few years ago, had your rule been into effect (and considering he deposited just enough to trade the same volume), his loss would have been **\$600,000 to \$1.2 million**.
2. Moving our money from Forex into Future increases our risk by a potential infinite amount, since it is very possible to lose much much more than your account.

Now let's take into consideration the "Trading For A Living" trader. He/she withdraws money every money to pay the mortgage, bills...etc. He/she lives on his monthly profit. You are effectively taking this man/woman's livelihood away.

Deposit: \$100,000  
Leverage: 100:1  
Monthly Profit average: 5%  
Monthly "Paycheck": \$5,000

Let's see how your proposed changes would affect him assuming he took the same risk on each trade (in terms of % of his total deposit):

Deposit: \$100,000  
Leverage: 10:1  
Monthly Profit average: 0.5%  
Monthly "Paycheck": \$500

He will now have 2 choices moving forward:

1. Deposit \$1,000,000 into his account to maintain the same amount of risk/volume he has been using (unlikely)
2. Make more frequent and riskier trades, as he will need to make 10x the amount of profitable trades each month in order to maintain his \$5,000 income.

I understand you are doing this because there are many foolish traders out there who don't know what they are doing, don't do the research, think it will be easy and immediately blow their accounts. Please understand, these people would lose their accounts even with 0.5/1 leverage. Please Please Please think about how this affects the intelligent, educated and seasoned trader.

Don't throw the baby out with the bathwater.

~Robert Frelow

**From:** EVERETT RICE <ewr972@msn.com>  
**Sent:** Monday, March 22, 2010 1:59 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

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Dear Secretary of cftc.gov:

Please don't pass the Regulations of the Forex, identification number RIN 3038-AC61 , law, because it could

- Require all retail Forex industry players, including Introducing Brokers, to register with the CFTC.
- Implement a \$20 million minimum net capital standard, with an additional volume-based minimum capital threshold.

**HOW WILL THESE CHANGES AFFECT FOREX TRADERS AND THE AMERICAN ECONOMY?**

Should the 10 to 1 leverage rule proposed by the CFTC be adopted:

- Funded accounts currently in the U.S. system can be expected to go offshore.
- Forex fraud may worsen, not improve. Unregulated dealers from around the world will thrive, while operating without requirements for capital adequacy, risk management models, marketing ethics, dealing practices or even returning of customers funds.
- The United States may cost itself millions of dollars in trade revenue.
- Thousands of white collar jobs that require an advanced education and range from software developers to accountants to foreign exchange dealers may be eliminated, or move out of the United States.

I pleade with you to please keep the Forex Market safe and lucrative.

Sincerely,  
Forex trader Evwewtt Rice

**From:** Jonathan Hiscott <jonathanhiscott@gmail.com>  
**Sent:** Monday, March 22, 2010 2:35 AM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** cftcfeedback@fxdd.com  
**Subject:** Regulation of Retail Forex

---

Hello, I'd like to comment on proposed regulation, RIN 3038-AC61

If Americans are limited to a 10:1 leverage ratio, I will almost certainly and immediately simply open an account with a foreign broker. I agree that leverage over 100:1 is silly, but 10:1 is not enough, leverage exists for a reason beyond simply suckering folks who can't do math into thinking a 400:1 leverage has some sort of advantage.

I also agree that there needs to be more regulation in American currency trading. The U.K. has regulation that makes sense and is helpful, let's copy them.

Thank you,  
Jonathan Hiscott

**From:** Bob Baird <rbw3@mac.com>  
**Sent:** Monday, March 22, 2010 2:43 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

I'm an investor in foreign currency through a U.S. dealer. I am very concerned about the proposed rules from the CFTC. The CFTC's recent rule proposal, which would limit customer trading leverage to 10 to 1, would be a crippling blow to the U.S. forex industry. This unsustainable rule would drive U.S. forex dealers, which brings tens of millions of dollars into the U.S. banking industry each day, offshore into the hands of foreign competitors. It would encourage fraud both at home and abroad as customers seeking to trade retail forex would have no other legitimate domestic alternative. As an investor, I would be forced to take my business outside of the United States.

Bob Baird  
Sandy UT, 84092  
rbw3@mac.com

**From:** RiskRwrd@aol.com  
**Sent:** Monday, March 22, 2010 2:50 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Proposed CFTC Regulation of Retail Forex - RIN 3038-AC61

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RIN 3038-AC61

In regards to the proposal to increase margin tenfold, I believe this will increase the risk to small investors for a variety of reasons. Other than the obvious inability to provide protection to forex traders and investors who move their accounts overseas, many domestic traders will trade options on the forex ETFs as a substitute. Since most small traders in need of the current margin levels to make a living in forex fall below the \$25,000 threshold for allowing daytrading in the equity markets, the ability to control risk will be complicated by forcing these traders to carry positions overnight to meet the daytrading restrictions. The forex ETFs and their options do not trade 24 hours a day as cash forex does, so traders in these vehicles will lose the ability to maintain continuous stop orders to limit their risk. These traders will be exposed to large gaps in the underlying vehicles, as these markets will continue to move overnight due to events overseas.

Small retail equity traders have lost money and the ability to best control risk because of the reactionary day trading limitations put in place on accounts under \$25,000 after the dot-com bubble burst in 2001. During the volatile markets of the past couple years, small traders were forced to shorten the time to maturity of the options they could afford to trade due to increases in implied (and actual) volatility. Time decay in these short maturities posed considerable risk. If a trader purchased options in the morning that reached or exceeded their price appreciation targets later that day, they were barred from taking a profit and forced to hold positions overnight by these ill conceived regulations. At a time of extreme volatility when moves that used to take months would occur in hours, the regulations prevented small traders from making the numerous profitable trades available to others. By being forced to hold positions overnight, long option traders were forced to lose money to time decay and were needlessly exposed to news events and directional risk.

Many small traders hampered by equity day trading restrictions migrated to the foreign currency markets where they could not only take advantage of multiple significant intra-day trading opportunities without penalty, but could also maintain better control of risk with 24 hour continuous stop orders. They also could control risk by limiting the amount of money kept with these forex brokers (which would increase ten fold if the proposed regulations are enacted) and by the policy of most brokers to automatically stop traders out of positions if their account balances fell below margin. When these traders are left with the choice of finding a new line of work in a difficult job market, or attempting to continue trading forex through forex ETF options, many of them will chose the latter (if they don't just move their accounts overseas). The limited liquidity and wider markets in the forex ETF options will cost these small traders money that will flow to the big moneyed traders and market makers in these options. They will lose additional capital to time decay. They will take on considerably more risk by being unable to trade their positions for the 17.5 hours of the trading day that the rest of the world will have access to the forex markets.

If you enact this extreme margin increase, you will have increased the risk to small forex traders, raised the barrier to access for those looking to make a living trading the markets and needlessly put many out of work.

Once an unwise regulation like this is enacted it is very difficult for small traders, without the financial clout and lobbying power of the larger financial institutions, to effectively lobby to undue a mistake. The equity day trading limitation is a case in point. It's been nearly a decade since this counter productive regulation was enacted, yet it remains on the books. Therefore I urge you not to act impulsively on a regulation that could indefinitely harm small traders and the forex industry.

Regards,

Mark K

**From:** virginiabpape@yahoo.com  
**Sent:** Monday, March 22, 2010 2:55 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Public Comment Form

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Below is the result of your feedback form. It was submitted by  
(virginiabpape@yahoo.com) on Monday, March 22, 2010 at 02:55:00  
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commenter\_subject: 10-01C188-CL-0000027  
commenter\_frdate: March 27, 2010  
commenter\_frpage: 10-01C188-CL-0000027  
commenter\_comments:       Leverage should not be lowered to 10 to  
                          one.  
                          Instead 50 to one is a compromise and still keeps  
                          the traders in the US.  
commenter\_name: V. Pape  
commenter\_withhold\_address\_on: ON  
commenter\_address1: 12902 wedgewood way  
commenter\_address2: apt c  
commenter\_city: hudson  
commenter\_state: FL  
commenter\_zip: 34667  
commenter\_phone: 786-406-2979  
-----

**From:** Trong-Thuy Nguyen <trongthuy@hotmail.com>  
**Sent:** Monday, March 22, 2010 3:00 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

Regarding: RIN 3038-AC61

I am against the 10:1 leverage proposal.

Please DO NOT lower the current leverage to 10:1 and increasing the margin requirements, the reasons are:

1. FAIRNESS: Not fair for US traders against non-US traders
2. BUSINESS/JOB LOST: non-fairness and more restrictions against traders (not brokers) encourages traders to switch accounts to foreign brokers and prevents foreign traders to open accounts in the US. It might eventually kill the Forex market in the US.
3. FREEDOM: Traders are not gamblers. They are investors. By limiting the leverage, it will take away people choice and freedom of managing their investments
4. ADVERSE AFFECT: you can not protect people from themselves, especially small and average traders. 10:1 leverage restriction may violate many traders' strategies and rules they have. Consequently causing them to violate their rules and strategies and leading to losing money in the trades.

If you want to protect traders, here are a few solutions:

1. Make sure FX traders are educated. Create a test and only allow people who passes this test to take advantage of 100:1 leverage or more
2. Create more and strict regulations to provide fairness and prevent brokers' exploitation from ripping off their account holders and hence causing traders to lose money.

Truely yours,  
Thuy

---

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**From:** Trong-Thuy Nguyen <trongthuy@hotmail.com>  
**Sent:** Monday, March 22, 2010 3:00 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

Regarding: RIN 3038-AC61

I am against the 10:1 leverage proposal.

Please DO NOT lower the current leverage to 10:1 and increasing the margin requirements, the reasons are:

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4. ADVERSE AFFECT: you can not protect people from themselves, especially small and average traders. 10:1 leverage restriction may violate many traders' strategies and rules they have. Consequently causing them to violate their rules and strategies and leading to losing money in the trades.

If you want to protect traders, here are a few solutions:

1. Make sure FX traders are educated. Create a test and only allow people who passes this test to take advantage of 100:1 leverage or more
2. Create more and strict regulations to provide fairness and prevent brokers' exploitation from ripping off their account holders and hence causing traders to lose money.

Truely yours,  
Thuy

---

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**From:** Howee Wilkins III <howeemovezthingz@gmail.com>  
**Sent:** Monday, March 22, 2010 3:22 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex'

---

RIN 3038-AC61.

--  
Famous Howee the Ev-Angel

**From:** mariappan.p ponnusamy <appans2006m@gmail.com>  
**Sent:** Monday, March 22, 2010 3:30 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** regulation of retail forex

---

sir,

I am of the opinion that should this leverage rule be imposed or drastically reduced, the billion-dollar forex industry in the US will suffer greatly.

with regards  
p.mariyappan  
mg investments advisors.  
india.

**From:** Trong Nguyen <chutgidenho2008@yahoo.com>  
**Sent:** Monday, March 22, 2010 3:34 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

Dear David Stawick, Secretary

Regarding RIN 3038-AC61

I am against the 10:1 leverage and increasing the margin requirements proposal. This is the worst US regulation on retail traders that I have ever seen. Please DO NOT pass this regulation.

Best regards,

Trong

**From:** Thuy Nguyen <tahoenet@yahoo.com>  
**Sent:** Monday, March 22, 2010 3:40 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

Please leave the current leverage and margin requirements on FX trading as is. I am against 10:1 leverage proposal.

Thanks,  
Jason

ps. RIN 3038-AC61

**From:** Calvin Lim <calvin.limmy@yahoo.com>  
**Sent:** Monday, March 22, 2010 4:14 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex.

---

Hi, good day to you,

My name is Calvin from Malaysia. I'm just a very tiny retail Forex investor.

I had been observing to choose a more appropriate Forex trading company for myself last year from the countries nearby such as Singapore to Hong Kong and elsewhere.

Finally I found IBFX in USA this is the company where I have been trading with since last year, the key point which has attracted my interest in it is that HIGHER

leverage ratio, prompt & efficient trading platform and good customer care system support. Of course, it is important that IBFX is based in USA too because

most of the currency pair is versus USD.

Somehow, later on the leverage ratio is reduced from 1: 200 to 1: 100 but I feel that it is still alright traded at 1: 100 as this is the situation whereby similar to my

first trading in Forex investment 14 years ago.

Unfortunately, and is very regreted to hear that you are going to reduce until 1: 10; this is beyond my affordability.

As we all know Forex is the most liquidity investment in the world and its colateral (actually no colateral, the equity, it's solid cash) is substantial enough to

back the existing 1: 100 margin leverage. Unlike other derivatives instrument which has spoilt the USA financial market as well as world economy... in 2009.

Hopefully, you can understand my mail as my English is not that o.k. Thank you.

Yours truly,

RIN 3038-AC61. (identification number provided by IBFX to me)

**From:** Nikhil Patel <nvpatel11@yahoo.com>  
**Sent:** Monday, March 22, 2010 4:28 AM  
**To:** secretary <secretary@CFTC.gov>; cftcfeedback@fxdd.com  
**Subject:** CFTC Seeks Public Comment on Proposed Regulations Regarding Retail FOREX Transactions, Release: 5772-10 :-<http://www.cftc.gov/newsroom/generalpressreleases/2010/pr5772-10.html>

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To whom it may concern

I have been Trading the Retail Forex Market since 2005, and i can say since then I've put a lot of time learning and understanding how to stand on my own, and finally becoming successful at it I think CFTC should be regulating in the best interest of the public to create a level playing field with fair and clear rules, not have some kind of restriction on retail Forex clients I also believe that having clear rules written in simple English and not lawyer talk would help. I do think that we need some kind of oversight but it should always serve the good of the public not create different levels of restrictions for one set of society and one set for another.

My hope is that you would reconsider from putting restrictions that go against the general retail Forex Trader and not create a dual layer system, Instead of creating two sets of rules you should be concentrating on how to level the playing field so every person in these great Nation can live there American Dream. If you pass these Rule these is totally against the Retail Forex client and gives an unfair advantage to Banks which by the way don't fall under your umbrella of regulations i think they should take the power away from the CFTC and give it to the Federal reserve instead of having to agencies working from two total different realities so please stay out of these as much as you can and also kick the NFA the self Ruling body that has passed all the Hedging and Straddling Rules against the Retail Forex trader, these rules have Cleary given the advantage to banks, We don't need the CFTC to add more layer of rules on what we already have you should be governing and being fair to the Public these is a Democracy stop acting like you should be controlling peoples life, I think if you want to help you should have people at the CFTC, not get paid from my and the public's tax payer but should be told if you can trade and make money than your are hired to be at the CFTC. But I guess that would be too fair. **I don't think the CFTC should pass these rule and should also dissolve the NFA and go back to reassess what damage they have already done and fix it and make it where a US client is able to compete in the real world with any body in the world.**

**So please do not Pass these unreasonable Rule, Please think and look to see if it benefits the regular Forex public and general public who would like to come in the retail Forex world present and Future**

Sincerely

Sir. Nikhil

**From:** Perspicacia\_Main <gary.fluker@perspicacia.net>  
**Sent:** Monday, March 22, 2010 4:53 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex - RIN 3038-AC61

---

March 21, 2010

Gary L. Fluker, Jr.  
Perspicacia Trading, LLC  
President  
5700 Arlington Avenue, 12V  
Bronx, NY 10471

Mr. David A. Stawick  
Secretary  
Commodity Futures Trading Commission  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581

**Re: Regulation of Retail Forex  
RIN 3038-AC61**

Dear Mr. Stawick;

I believe that Regulation of Retail Forex (RIN 3038-AC61) proposal to reduce the leverage ratio to 10:1 will render the United States retail forex business non-competitive in a global business market. We would undoubtedly see a mass exodus of assets to lesser regulated foreign retail forex centers along with it many much needed jobs and tax revenues. The National Futures Association set a very competitive ratio of 100:1 in November of 2009 which left me wondering why the CFTC would decide to add further destructive requirements. As I read the proposal, the CFTC's main reason for proposing this legislation is to protect U.S. retail forex investors from unscrupulous practices by unsavory Retail Forex Dealers and intermediaries. Though in my honest opinion I feel there will be nothing for the CFTC to govern or protect, as this proposal and potential legislation will force traders like myself to move their assets off-shore.

Personally, the use of 100:1 leverage has allowed me to learn the very difficult and ever-changing business of retail forex with limited capital outlays. Due to the small capital requirements, I risked less than US\$10,000 in three years while adjusting and perfecting my skills as a trader. This has awarded me the opportunity to transition to becoming a full-time forex trader and create a strong business that will pay tax revenues as a single member Limited Liability Company without the heavy burden of large capital requirements.

I thank you for allowing me this opportunity to voice my concern and hope that the Commission will find my comments helpful in rendering their decision.

Kind regards,

Gary Fluker

**From:** Bob Ross <bob@sowhataboutbob.com>  
**Sent:** Monday, March 22, 2010 5:33 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation Of Retail Forex

---

David Stawick,  
Secretary, Commodity Futures Trading Commission,  
1155 21st Street, NW,  
Washington, DC 20581

RE: RIN 3038-AC61

Dear Mr. Stawick!

The role of the CFTC is to protect the American investor, not hurt him! And also, your role is not to try and protect the investor from himself!

Leverage is a tool. And like any tool, it can be used wisely or foolishly. The 100:1 leverage is what allows the small investor like myself to be able to trade the FOREX market.

Reducing leverage to 10:1 will result in less income for thousands of traders, which means less capital gains, which means less income for the US government!

Plus, this move would essentially wipe out retail FOREX in the US and put many highly-skilled workers out of work.

Does President Obama know that you want to decrease revenue for the government, and increase the unemployment rate?

Respectfully yours,

Robert Ross  
Los Angeles, CA

**From:** Talvin Poole <tpoolejr@hotmail.com>  
**Sent:** Monday, March 22, 2010 6:31 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

To the CFTC in regard to the proposed leverage requirements for forex trading.  
RIN 3038-AC61

Hello,

I want to start this email by stating that I have been trading Forex for 5 years now. Prior to that I spent the preceding 5 years researching, studying, and practicing (via demo accounts) Forex Trading and continue this practice to the present day. During my 5 years of actual trading I have only had to switch brokers once and that was due to the failure of RefcoFX. I currently have an account with GFT Forex. I have traded using leverage as low as 200:1 and as high as 400:1 and have found through my experience that the only difference between the amount of leverage utilized was the amount of capital I had to put up to enter and maintain a trade. Based on the strategy/system that I have developed and employ, my risk stayed the same. In essence, my system generates a signal of when to get in and when to get out. And while it's not perfect, it's my system that protects me from large losses and allows me to profit, not the use of lower leverage. Last November, my broker informed me that due to new CFTC requirements, the maximum amount of leverage I would be able to use would be 100:1. For me, this meant that I had to put up 4x the amount of money to trade with the potential to earn less profit. However, my risk has actually increased because I have to put more money at risk to make (at best) less money for the same type of trade. Although extremely inconvenient, I was able to adjust my system to deal with this disadvantage. With your latest proposal, traders like myself will have to put up 10x the amount of money (on top of the previous requirement) just to trade (at best) with even greater risk (more exposure) and even less profit expectation. Now I understand the need for protection for what I call the casual investor/trader and I believe that is the intent of the proposal. Instead of reducing leverage for everyone that trades forex, why not give the choice to the individual investor/trader? Why not require new accounts to have a default setting for leverage at 10:1, and if a trader feels confident they can trade using more leverage, have the option to request from their broker a higher ratio up to 100:1? In this way, there is still the (perceived) protection for the casual (or inexperienced) trader without hurting the business of the professional (or more experienced) trader? In any case, all I ask is that you not pass a proposal that will not protect any trader but cause more harm to those traders that are experienced and took the time to learn how to trade before trading their own money.  
Best regards and thank you for your time.

Sincerely,

Talvin E. Poole Jr.

---

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**From:** BERT LEVITT <levitt212768@bellsouth.net>  
**Sent:** Monday, March 22, 2010 7:04 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** new rules

---

Dear Secretary,

I trade currency for a living and certainly don't need to be protected by a government regulator relative to leverage I employ. Your proposal will put me out of business. I think unemployment is high enough with out your adding to it. As a watchdog organization your efforts would be better spent protecting retail accounts from broker fraud. Why not force brokers to put customer funds in segregated accounts like the regulated exchanges do? Then the risk would be based on the trader's skill more and on the brokers integrity less.

I know the political environment is to regulate because the cow (current financial crisis) is out of the barn. Currency valuations had nothing to do with this or any other bubble I know of. In short; don't screw with my livelihood in any way other than making the playing field level.

Bert Levitt  
630 Ridgewood Ave.NW  
Gainesville,GA 30501-3138  
770-532-7775

**From:** cs <gburoo@gmail.com>  
**Sent:** Monday, March 22, 2010 7:16 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

Dear Secretary,

In reference to Regulation of Retail Forex ( RIN 3038-AC61)

As a retail Forex trader I'm concerned about recently proposed rule changes that would negatively affect the retail Forex market. -

I, feel we should have the freedom to decide how we want to trade and at what leverage levels. I chose to trade the Forex market because of the available leverage.

I can understand leverage limitations for individuals trading futures. In futures "life devastating" losses are possible; one can loose everything. Retail Forex doesn't contain that level of risk. In retail Forex if I make a really bad mistake, I can loose my whole account (whatever that value may be). So extreme leverage limitations are unwarranted.

Authority over the retail Forex market was given to the CFTC in title 13 of the Farm Bill. It appears the purpose was to curb scams and reign dishonest practices among unscrupulous Forex dealers and brokers. My understanding is from 2000 to 2009 most court cases involving the Forex market were cases of solicitation fraud.

NFA polices itself very well. They have set what they consider acceptable leverage levels for retail Forex and most retail Forex traders agree. Futures brokers offer more than 10:1 leverage and futures traders are at risk of loosing, in reality, everything! That can't happen in retail Forex.

If regulation 5.9 is retained, the U.S. retail Forex market will dry up and blow away overnight. If you drop allowable leverage below 100:1 you will see traders leaving the U.S. I understand Japan has started restricting leverage and the result is: traders are moving their accounts to foreign competitors. And I believe...as I've heard said, it will never return, much like all the U.S. industries we see leaving the country. Many people believe the industries we've seen go off shore is the result of cheap labor and higher profits. Cheap labor's a nice side effect but not the true reason. Industry has left the U.S. due to over regulation. I hope over regulation doesn't destroy the retail Forex market as well.

U.S. industry going off shore has caused untold job losses; the same fate awaits Forex brokers if leverage limit proposals are enacted. With job losses come revenue losses, reduced tax revenue, unemployment and unemployment costs, this doesn't seem like a good change to make at a time of recession with a depression looking more likely.

NFA has already reasonable leverage levels for retail Forex, please don't incorporate regulation 5.9.

Most of all, it's another incursion to our liberty, and we have enough of those already.

Thank you,

Charles Sturtevant  
Aurora, Colorado

**From:** Sean Bundock <s.bundock@btinternet.com>  
**Sent:** Monday, March 22, 2010 7:18 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

Sir

Here are my comments on the Regulation of Retail Forex proposal by the CFTC: reference: RIN **3038-AC61**.

**Leverage in retail Forex customer accounts would be subject to a 10-to-1 limitation.**

This proposal is completely unnecessary and is grossly unfair to small amateur traders like me.

We can't afford an account ten times bigger and will be forced to stop trading.

Sean

**From:** Agnes Bundock <agnes.bundock@gmail.com>  
**Sent:** Monday, March 22, 2010 7:22 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

Sir

Here are my comments on the Regulation of Retail Forex proposal by the CFTC: reference: RIN **3038-AC61**.

**Leverage in retail Forex customer accounts would be subject to a 10-to-1 limitation.**

This proposal is completely unnecessary and is grossly unfair to small amateur traders like me.

We can't afford an account ten times bigger and will be forced to stop trading.

Agnes

**From:** Pratik Thakar <pratikmthakar@yahoo.com>  
**Sent:** Monday, March 22, 2010 8:04 AM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** admin@fsalt.com  
**Subject:** Regulation of Retail Forex - RIN 3038-AC61

---

Dear Sir,

Here are my comments on the Regulation of Retail Forex proposal by the CFTC: **reference: RIN 3038-AC61.**

**Leverage in retail Forex customer accounts would be subject to a 10-to-1 limitation.**

This proposal is completely unnecessary and is grossly unfair to small amateur traders like me.

We can't afford an account ten times bigger and will be forced to stop trading.

Modern technology has made it possible for the small amateur people to benefit from Forex trading just like the Wall Street fat cats with their obscene bonuses.

Now the CFTC is proposing to pull the rug out from under our feet by turning back the clock.

It's nonsense to say **we need protecting**. We're sensible people and are fully aware of the risks in trading. We trade prudently and are making steady profits.

Maybe the Federal government doesn't like that but we're just ordinary citizens trying to survive in a global financial crisis caused by greedy bankers.

What's more, this proposal is likely to make the crisis worse.

It will have the unintended consequence of reducing trading, by both amateurs and professionals, this will reduce the amount of turnover causing retail broker to reduce the number of staff they employ.

**I urge you to reconsider and scrap this unfair, unnecessary and potentially damaging proposal.**

Please don't implement this type of illogical decisions on people like us. Better you think about how to stop big fat cats like banks and financial institutions sucking the market.

With a hope that you will not take any illogical and unnecessary decision.

Yours sincerely,

Pratik Thakar

**From:** gwkeene@gmail.com  
**Sent:** Monday, March 22, 2010 8:15 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Public Comment Form

---

Below is the result of your feedback form. It was submitted by  
(gwkeene@gmail.com) on Monday, March 22, 2010 at 08:14:56  
-----

commenter\_subject: Regulation of retail forex

commenter\_frdate: Jan. 20, 2010

commenter\_frpage: 3282-3283

commenter\_comments: The proposed changes to require 10:1 leverage requirements for retail forex brings up the question of why does this not also apply to forex futures? The forex futures requirement is now a 100:1 requirement and I don't see a proposal to require it to be changed again to a 10:1 requirement. Nowhere do I see an explanation for this discrepancy.  
It is reasonable then to suspect there is no valid explanation; and if there isn't one then it is not logical to change the forex retail leverage requirements to be different from forex futures.

commenter\_name: Glen Keene

commenter\_withhold\_address\_on: ON

commenter\_city: Lexington

commenter\_state: KY

commenter\_zip: 40505  
-----

**From:** Tamer <merhi09@gmail.com>  
**Sent:** Monday, March 22, 2010 8:29 AM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** merhi09@gmail.com  
**Subject:** Regulation of Retail Forex

---

RIN 3038-AC61

From: Tamer in Goiania, Brazil - Goias

I do not agree with the limit regulated Independent Introducing Brokers (IB's), to work with just a single broker.

I think this is a way to limit our investment strategies.

--

This mail was sent via IB Coalition <http://ibcoalition.org/take-action/>

**From:** Mike Bell <mbell\_7@yahoo.com>  
**Sent:** Monday, March 22, 2010 8:50 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

Dear Sir, I am trading forex with a small account and doing it in a responsible way, that is, controlling the risk and managing the trades. I have taken courses from reputable teachers who know how to effectively trade the market while controlling risk and managing the trades. The proposal (RIN 3038-AC61) to change the leverage from 100:1 to 10:1 would, I think, make it very difficult for me to continue with forex trading. The margin requirement would be too high for the amount of money that I can put into the account. The income potential from my trading, though not large by some standards, has the potential to be life changing for me. I am sure there are many other traders in my position. I would urge that the leverage ratio be left at 100:1. Very Sincerely, Mike B.

**From:** ddark@triad.rr.com  
**Sent:** Monday, March 22, 2010 8:56 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

Secretary of CFTC,

In response to the proposed bill ID #RIN3038-AC61, would you kindly dismiss this proposed bill. The intended outcome of this bill will not be the ultimate response that this agency is looking for. With proposals that you are recommending, will sadly, make things worse not better.

Raising the leverage requirements, demanding that individuals be registered with the CFTC are not intelligent actions to take. First off, this STILL is the United States of America. This country was founded on people taking responsibilities for themselves, not having someone else do that for them. If someone puts too much money into a trade...let them lose it. That is their God given right. That's what makes trading the markets such a wonderful, passionate, American way of doing business. It's up to you whether you succeed or not.

Making these proposed changes will:

- A) Move funded accounts off-shore where there aren't as many stringent, over-bearing, down-right non-American laws
- B) Cost the U.S. millions of dollars in tax revenues and trade
- C) Further move this country from its foundation to a more socialistic society of big brother having to tell us what we can and can't do
- D) Have companies pop-up all over the world to broker for US citizens and ultimately lose their money from bankruptcies or enapt practices, to downright deceit. Isn't that why your agency was created? To look after us, not push us over the edge.

There is no way that the proposed bill is in anyway healthy, or good, for the the people of the United States, nor is it constitutionally correct. At some point we have got to go back to our countries beginnings and stop this madness of becoming a socialistic society.

Please do not allow this bill to pass for the good of the American public. STOP THIS IDIOTIC BILL!!

Sincerely,

Daniel Dark

**From:** GABRIEL GUILLERMO FERNANDEZ MONTERO <ggfernandezm@yahoo.es>  
**Sent:** Monday, March 22, 2010 9:02 AM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** cftcfeedback@fxdd.com  
**Subject:** Regulation of Retail Forex

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Identification number: RIN 3038-AC61

Good morning

I sent this email to say my opinion about the new regulation of FOREX, first I am agree that CFTC will have the authority on Forex firms and the first point of the new regulation:

**-Clarified the scope of the CFTC's anti-fraud authority with respect to retail off-exchange foreign currency transactions".**

I am agreeing with these powers of the CFTC and I am agreeing to the second point of regulation:

**-provided the CFTC with the authority to register entities wishing to serve as counterparties to retail FOREX transactions as well as those who solicit orders, exercise discretionary trading authority and operate pools with respect to retail off-exchange foreign currency transactions.**

And I am agreeing with third point of the new regulation that is:

**-mandated minimum capital requirements for entities serving as counterparties to such transactions.**

But I disagree that the CFTC will imposes a limit on financial leverage on these foreign currency assets and I will expose why CFTC should not impose financial limits of leverage on currency:

1 - It is true that the market requires certain regulations for their proper functioning, But cause the suffocation of the market with excessive regulations could coming to remove companies of FOREX in the United State, I am agree on the all points of the new regulations serve to generate the proper functioning of the market. But it is wrong to limit the leverage that the Forex broker, they have with the technology so that no trader can generate more losses than deposits from their accounts, this means that market have the tools to prevent the trader will lost more than it has in cash in your account.

2- Forex is the world's largest market with capital movement of \$ 2 Trillion dollars per day, with the highest degree of liquidity, profundity and 100% liquid assets, this means that any position can be closed at any time without produce systemic risk in the financial system, I do not see what the problem with financial leverage for private traders because any trade position can be closed at any time.

3-This limiting about financial leverage in the USA, it will produce years of work creating lost in a foreign exchange market international and the USA will give everything won to London, this will cause that brokers who are domiciled in the USA change their place work to London, thank to this regulation that the USA wants to impose. The USA will lose competitiveness in the Forex market where it already dominates USA will lose approximately \$ 1,000 billion dollar in taxes, brokers will look new places to work as London, Tokyo, Dubai, Etc. The USA will lose work places in the foreign exchange market around 10,000 direct and indirect jobs. And these losses are due only that brokers will be forced to leave U.S. to please their customers what demand greater financial leverage and less regulations.

4-All market participants know they are playing, I mean that the trader should know about the risk of FOREX and their level of financial leverage, if the trader loses money or all of their capital, traders must take responsibility, it is true that the greatest leverage produces higher profits and greater losses, but this does not mean that the debt on capital is bad, only be must manage risk.

5- The CFTC proposes a maximum leverage of 10:1 in the currency market, I do not understand the CFTC, Why you wants to get limit the financial leverage?, the futures market have a leverage of 30:1 and can reach a 70:1 in future the German debt bonds to 10 years, another example are stock options, indices,

commodities, etc. Where debt on capital also comes at a 70:1 or 80:1 if the CFTC want protect the traders, the CFTC would have to apply this limit of financial leverage to all USA markets and you do not to discriminate against a market that is more liquid than any futures market, stocks, etc. like is the foreign exchange market, or FOREX.

6- Regarding item 5, the financial instruments and derivatives that are obtained from these, are necessary for the proper functioning of international financial market for the simple reason that these tools accelerate business cycles, it is generating bullish and bearish market faster, it is causing greater market stability. The traders need financial leverage in the foreign exchange market because they take the risk that insurers will not take. Each financial instrument has its advantages and its degree of risk, but this is necessary to stability the financial system and thanks to the different degrees of leverage is obtained the system financial stability.

As I stated I disagree with the limited financial leverage to 10:1, I hope you (CFTC) will reconsider the regulation on financial leverage and leave it to what the free market provides, because I know that at this point about financial leverage works very well to market .

I hope you reconsider the new regulation and especially in the financial leverage, because if new regulation becomes effective as suggested by you (CFTC), the currency market in the USA will become less competitive and the consequences that would bring to market.

Best regards,

Gabriel Fernandez Montero

**From:** Cainan Ashton <cainanashton@gmail.com>  
**Sent:** Monday, March 22, 2010 9:11 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** 50:1 is more realistic (eg OANDA)

---

Cainan Ashton  
+62 8123 852 888  
Skype: cainan.ashton

**From:** Eric Wagner <ericwag70@gmail.com>  
**Sent:** Monday, March 22, 2010 9:31 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** no changes to forex

---

To whom it may concern,

I find the intentions of the CFTC to make changes to the forex market unacceptable. Do you really believe that I need the government to decide how much leverage I should use? There are many persons in the US who make their living in this market. Knowing when to and not to use leverage is part of the market....but taking the leverage away.....taking our choice away.....that is killing the market and forces us to move our accounts overseas. So if your intention is to kill the US market then go ahead pass your laws and instead of the money flowing into the american economy we can send it all overseas.

Thanks for your time,  
Eric Wagner

**From:** Myron Williams <myron\_jack@yahoo.com>  
**Sent:** Monday, March 22, 2010 9:49 AM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** myron\_jack@yahoo.com  
**Subject:** Regulation of Retail Forex

---

RIN 3038-AC61

From: Myron Williams in Tallahassee, Florida

I'm a trader and I also work every day. I use my forex trading account to supplement my income. The rules of changing the leverage will hurt working class investors like me. It will make more risky to be involved. At 100 to 1 leverage I can make more trades per week. At 10 to 1 leverage it is very limiting. This move will force most people offshore which will cause many more loses and fraud to the U.S. traders. Thanks.

--

This mail was sent via IB Coalition <http://ibcoalition.org/take-action/>

**From:** Bruce Fisher <bruce@fisherca.com>  
**Sent:** Monday, March 22, 2010 9:55 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** forex changes

---

I am writing in support of the present forex regulations. DO NOT CHANGE THE RULES.

The present regulations allow informed traders to maximize their trading potential. Forex trading is for grownups and to penalize experienced and informed traders to try and protect novices who are probably never going to become skilled traders is regulatory overreaching and unnecessary babysitting. Let brokers and traders do their business with minimal oversight such as you have presently.

I for one, will move my account out of the USA if these regulations become too onerous.

Bruce Fisher

**From:** Jin Woo Chung <jwchung@uol.com.br>  
**Sent:** Monday, March 22, 2010 10:27 AM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** 'mailto:cftcfeedback@fxdd.com'@smtp.uol.com.br  
**Subject:** Regulation of Retail Forex

---

RIN 3038-AC61

Concerning the change in the leverage limitation, **I'm strongly against this proposal.**

Jin Woo Chung

**From:** Jin Woo Chung <jwchung@uol.com.br>  
**Sent:** Monday, March 22, 2010 10:29 AM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** cftcfeedback@fxdd.com  
**Subject:** Regulation of Retail Forex

---

RIN 3038-AC61

Concerning the change in the leverage limitation, **I'm strongly against this proposal.**

Jin Woo Chung

**From:** Hardman, Harold <hhardman@CFTC.gov>  
**Sent:** Monday, March 22, 2010 10:43 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex  
**Attach:** Doc2.docx

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TO: The Comment File  
FROM: Harold L. Hardman  
RE: Comment on Proposed Retail Foreign Exchange Rules  
Date: March 19, 2010

On March 18, 2010, a meeting was held with FXSolutions in which they discussed their concerns with the Commission's proposed rules regarding retail forex. In attendance from the Commission were Dan Berkovitz, Harold Hardman, Vince McGonagle, William Penner, Sue McDonough, and Duane Andresen. Michael Cairns, and Walter Zuck, FXSolutions, Scott Segal and Susan Molinari, Bracewell & Giuliani, and Mark Ruddy, Ruddy Law Office, PLLC represented FXSolutions. The major concern expressed with regard to the proposed rule was the leverage requirement. In their words, the proposed leverage amount would cause them to lose a number of customers, either forcing the demise of their business or pushing their business offshore. From their prospective, there is not direct connection between the amount of leverage and the goal to eliminate fraud in this market. They also noted that they have complied with the NFA leverage amount of 100 to 1. They noted that they will be sending a formal written comment for the rulemaking record along these lines.

**From:** caljones25 <caljones25@sbcglobal.net>  
**Sent:** Monday, March 22, 2010 10:54 AM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** Stawick, David <dstawick@CFTC.gov>; Smith, Thomas J. <tsmith@CFTC.gov>; Bauer, Jennifer <JBauer@CFTC.gov>; Penner, William <WPenner@CFTC.gov>; Cummings, Christopher W. <ccummings@CFTC.gov>; Sanchez, Peter <PSanchez@CFTC.gov>  
**Subject:** RIN 3038-AC61

---

**I STRONGLY OPPOSED** to the 10-1 leverage limit as proposed in RIN 3038-AC61 relating to the Regulation of Retail Forex.  
**Counter-productive effects**

This senseless limit would in NO way protect, aid or benefit me but rather would greatly harm me since this restriction, if passed,

- would require that I submit substantially more margin-funds into non-protected, non-FDIC insured, non-SIPC eligible accounts, actually exposing me to increased risk in the event of bankruptcy of my Forex Broker.
- would NOT divert my business into regulated-Futures trading (as the CFTC is probably hoping), but rather would cause me to seek an unreliable, higher-risk offshore FX broker to trade through, whose practices might be questionable.
- would eliminate one of the greatest benefits of trading Forex : My ability to efficiently deploy my own trading capital in the way that I choose.

**Lower FX vols require far greater leverage**

FX volatilities are generally substantially lower than in the Equities or Futures market. Therefore, significantly more leverage is required simply to capture equivalent trading opportunities.

**Nanny not needed**

I do not want the CFTC to treat me like a child and dictate how I should trade. While 100-1 leverage is available to me – should I choose it – I am never forced to use it. The bottom line is that OTC Retail Forex trading is NOT Futures trading. Please do not try to treat it as such!

PLEASE IMMEDIATELY STRIKE YOUR PROPOSED 10-1 LEVERAGE LIMITATIONS.

Don't let proposal RIN 3038-AC61 become an expensive lesson in unintended consequences....

Thank you.

**From:** DeeRay Nielsen <DeeRayN@Monavie.com>  
**Sent:** Monday, March 22, 2010 10:54 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Leverage

---

I am opposed to any change in regulations that limit leverage on FX trading. The 100-1 limit was not a good idea. I want the ability to decide my own risk level – the government should not decide.

DeeRay Nielsen

**From:** JIrwin <jifx.59@primus.ca>  
**Sent:** Monday, March 22, 2010 10:59 AM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** Stawick, David <dstawick@CFTC.gov>  
**Subject:** Regulation of Retail Forex - 75 FR 3281

---

VIA E-MAIL

Mr. David Stawick  
Secretary  
Commodity Futures Trading Commission  
1155 21<sup>st</sup> Street, N.W.  
Washington, DC 20581

Dear Mr. Stawick

Re: Objection to 10:1 Margin Requirement in Regulation of Retail Forex Proposal under 75 FR 3281

I'm a retail forex trader based in Canada but maintaining a small (under 30 thousand dollars) forex account with a US broker as part of my carefully balanced investment portfolio.

I very much appreciate and value the proposed increased minimum capital requirements for retail forex brokers as well as the proposed requirements for registration, disclosure, record keeping, financial reporting and operational standards. These all work to ensure a safe market place for small traders and investors such as myself.

I do however strenuously object to the increase in margin requirement to 10% of the notional value of individual transactions. My reasons are as follows:

INCREASED RISK FROM HAVING ADDITIONAL FUNDS ON MARGIN DEPOSIT

With the advanced computer system maintained by my broker and its automatic liquidation features, if I make a bad trade I can only lose the risk capital on deposit or an amount close to it. In order to maintain the trading level that I'm comfortable with, the increased margin requirement will force me to deposit a much larger amount with my broker in order to trade safely with proper money management. The proposed rule 5.9 puts me at risk of losing a larger sum of money at my current trading level. It will also necessitate a move of investment funds from other asset classes to forex and cause a risk imbalance in my investment portfolio.

INCREASED RISK IN TAKING LONG TERM POSITIONS

Longer term positions require larger amounts of risk capital in order to allow for account draw down from normally fluctuating markets.

As a small trader the positions that I take are generally intra-day but my objective and that of many other small traders, is an improvement of skills and knowledge in order to move up to lower cost, longer term trades. The proposed margin increase may effectively shut me out of the long term markets from lack of risk capital.

DANGER THAT TRADERS WILL SEEK OUT OVERSEAS BROKERS

There is much talk of traders seeking out offshore currency brokers in order to retain 100:1 margins. I'm already in discussion with two such brokers. If I move my account to a European jurisdiction and thousands of others do so as well this will likely increase the transaction costs of US brokers and cause unemployment within the industry. The resulting reduction in revenue will also likely reduce the ability of US brokers to support market education. (noted below)

MARKET EDUCATION & ECONOMIC IMPACT OF MY CHANGING TO A EUROPEAN BROKER

As a new currency trader I have already expended in the United States the following amounts over the last 2.5 years: (a) US authored books related to price charts and technical trading - \$600 and (b) Software and education - \$4000

If I decide to move my account the approximate impact on US service providers will be as follows:

Current monthly cost of charting services and exchange fees - \$250

Proposed additional monthly costs and exchange fees from ESignal - \$440  
Proposed additional training fees and software instruction - \$4,600

Many of the US forex brokers are taking strong steps to provide and support market education. I make frequent use of (a) ForexTV (b) Daily Reports from BrewerFX (c) Market Training from MBTrading , LearningMarkets, FX360 and ForexFactory. If the US brokers lose forex customers on account of increased margin they will not likely be able to continue support of these strong educational and market reporting enterprises.

The US publishers and printers I have supported through my forex trading activities are Wiley, Prentice Hall, McGraw Hill, Bloomberg and Regnery.

#### EXPORT MARKET

I would like to remind the Commission that since I'm resident in Canada, forex services supplied to me are export services such as those set out above and they give support to the US balance of trade. I'm aware that there are a large number of Canadians using forex services from the United States.

#### FUTURES MARKET

In my own case I find that in trading forex I'm paying more attention to the futures markets and have been making paper trades in the futures as part of my development. The forex market with its current strong educational support makes it easier to look at the other markets. By forcing new forex traders out with onerous margin requirements the Commission might be chasing away a large potential for growth in the other markets.

#### CONCLUSIONS

For the reasons set out above I urge the Commission to review the proposed leverage restriction with a view to retaining the current 100:1 requirement.

I believe that since the margin was only recently adjusted in November 2008 that more time should be given to assess any protection offered by that change.

The CFTC provides large comfort and I'm not anxious to move my account to a European jurisdiction but may be forced to do so in order to continue trading in the spot currency market at levels that make it worth the large expenditure of time.

Respectfully  
J.Irwin,  
Forex Trader  
Toronto, Canada

**From:** Trento Castricone <castricone@hotmail.com>  
**Sent:** Monday, March 22, 2010 11:01 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex 75 FR 3281

---

Mr. David Stawick  
Secretary Commodity Futures Trading Commission  
1155 21st Street, N.W.  
Washington, DC 20581  
Email: [secretary@cftc.gov](mailto:secretary@cftc.gov)

Re: RIN 3038-AC61

Dear Mr. Stawick:

I am currently an active retail foreign currency trader. My Introducing broker currently represents more than one FCM. I see that in your proposed Forex regulations you want to limit Forex Introducing Brokers to representing only a single FCM.

I am very strongly against this restriction as it does not serve my interests.

Here's why. My IB creates trading software which I can't and do not wish to trade without. I like having choices of which broker I use. Your new rule will remove my choice and if I find the broker I'm with now doesn't suit my needs I will be forced under your new rules to stay with this broker. This obviously isn't fair to me nor my IB's close to 3,000 other traders who also rely 100% on their tools and signals. Removing choice is NEVER a good thing.

Please amend the proposed regulations to offer an Independent Introducing Broker option that will allow my Forex Introducing broker to represent more than one FCM, as Futures Introducing Brokers are currently authorized to do and giving me CHOICE.

Respectfully submitted,

Trento Castricone

**From:** luis santos gomez <luisseve633@hotmail.com>  
**Sent:** Monday, March 22, 2010 11:25 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** the regulation leverage from (china)

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Regulation of Retail Forex" in the subject line and identification number RIN 3038-AC61 in the body of your message.

from china:

please for you good well,

STOP, STOP, STOP, THE regulation for the broker forex in usa,,, that stuped decition, my risk is controled for trader (for me)... forex and stock this play with casinos hotel's in the word, the gamer is take control, not goverment,,,,

the company's of usa broker forex is out of your country for ever... what happend senator or legislator of united state???? that ridiculus..

coridially,

from china, hon kong

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**From:** luis santos gomez <luiseve633@hotmail.com>  
**Sent:** Monday, March 22, 2010 11:27 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** the regulation leverage from (china)

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from china, hon kong

---

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**From:** luis santos gomez <luiseve633@hotmail.com>  
**Sent:** Monday, March 22, 2010 11:27 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** RE: the regulation leverage from (china)

---

----

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from china, hon kong

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**From:** Carl Lucas <clucas.ing@gmail.com>  
**Sent:** Monday, March 22, 2010 11:28 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Leverage

---

Leave the current leverage in place on forex accounts.

--  
Carl Lucas

**From:** Carl Lucas <clucas.ing@gmail.com>  
**Sent:** Monday, March 22, 2010 11:31 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** 'Regulation of Retail Forex'

---

RIN 3038-AC61.

Leave the current leverage req as it is today.

--

Carl Lucas

**From:** 183558249@qq.com on behalf of  
~☆风之影☆~ <183558249@qq.com>  
**Sent:** Monday, March 22, 2010 11:45 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

Forex Leverage 1:100 is very appropriate, rather than the smaller the better, this will result in lack of liquidity.

If it were changed, and for investors is very negative, taking up more money, the risks are the same, the same position facing the explosion.

Present to do is to educate investors, rather than change the rules of the game.

**From:** Michael Fritz <michaelfritz@gmail.com>  
**Sent:** Monday, March 22, 2010 11:47 AM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex 75 FR 3281

---

Mr. David Stawick  
Secretary  
Commodity Futures Trading Commission  
1155 21st Street, N.W.  
Washington, DC 20581

**Re: RIN 3038-AC61 75 FR 3281**

Dear Mr. Stawick:

As you know, the commission serves at the pleasure of Congress and you ultimately answer to them. The Farm Bill of 2008 authorized you to write “reasonably necessary” regulations to regulate the off exchange Forex Industry. I feel that the commission has far exceeded its “reasonably necessary” instructions on several issues.

The recent changes in Forex rules, including the prohibition of hedging, increased margin requirements, and proposed new regulations are destroying the US Forex industry. Traders are choosing to flee these regulations and move their accounts to the United Kingdom, Malta, Switzerland, and Australia where regulations are more advantageous and reasonable. As a consequence, thousands of high paying US jobs are being lost.

Off exchange foreign currency trading vendors are available worldwide and American citizens want to trade currencies. The real question is, do we want them to trade with US regulated entities, or do we want them to trade with foreign or even worse unregulated companies? The choice is really yours to decide, by either writing reasonable or unreasonable regulations.

I have read and fully agree with the issues raised in the March 10, 2010 letter you received from the IB-Coalition.org. The letter they wrote to you is available at: <http://www.ib-coalition.org/our-letter-to-the-cftc>. Please consider the contents of that letter included in this one.

If I had to select one regulation to be the most obviously unreasonable in the proposed regulations, besides the 10:1 leverage issue, it would be the blatant discrimination toward Forex Introducing Brokers, with respect to **only** offering a **Guaranteed Introducing Broker** option.

To put this matter in perspective, in the insurance industry, this ruling would be the equivalent of restricting independent agents to represent only one insurance company. Not only would the insurance agent be limited to one insurance provider, but the insurance company with which the agent is affiliated would be jointly and severally liable for all of his or her violations of insurance regulations. Unlike the 300,000 independent insurance agents who have the lobbying support of a national association, *The Independent Insurance Agents & Brokers of America*, Forex Introducing Brokers have no such entity to lobby on their behalves. Forex Introducing Brokers are independent small businesses that lack access to a national lobbying presence. As such, these businesses frequently fall victim to extreme and unchallenged

government regulation.

The following reasons are why I believe the proposed regulations allowing only a Guaranteed Introducing Broker option should be changed:

- The regulation harms customers, as they would not be able to choose the best RFED/FCM to support their specific trading requirements under the new ruling. Each RFED/FCM offers a unique combination of spreads, leverage, and trading platforms, making it unique. Differences in customer trading styles and preference for long vs. short term or large vs. small trade sizes require a variety of RFED/FCMs. It therefore seems logical, and clearly in customers' best interests to offer a choice of RFED/FCMs.
- The regulation puts Forex IBs at a competitive disadvantage to Futures IBs; the later can chose to operate as either an Independent or Guaranteed IB. A Futures IB can represent as many FCMs as needed to service its customers properly. Restricting Forex IBs to a single RFED/FCM punishes their business and their customers alike.
- 85% of Futures Brokers have chosen to be Independent IBs rather than Guaranteed IBs. It therefore seems unreasonable to force Forex IBs to adopt a practice that has been systematically rejected by 85% of Futures IBs.
- Under the new regulation, Guaranteed IBs may be less likely to follow commission rules and regulations given that the RFED/FCMs with whom they've solely affiliated are held jointly and severally liable for their wrongdoings. Forcing RFED/FCMs to be jointly and severally responsible for the IBs wrongdoing could inadvertently encourage the Guaranteed IBs to be less attentive in following rules and regulations.
- The regulation harms the ability of small IBs to perform profitably, allowing them to only attract customers who might benefit from the specific RFED/FCM with whom they've affiliated. Offering multiple RFED/FCMs is critical to the service provided by IBs, as each RFED/FCM has different product offerings and unique advantages.
- There is no evidence which suggests that limiting IBs to a single RFED/FCM would, in any way, make it safer for clients to transact with them. The commission's claim that there is currently fraud in the unregulated Forex broker business is to be expected since it is not regulated at all. To conclude from this that more regulation is needed above the current future's broker regulation, which is heavily regulated, is wrong. It has been proven that the current regulation of Futures Brokers is very effective at controlling fraud and it can be expected to be just as effective for Forex Brokers too. No additional measures are needed or justified. The Independent IB options should be offered to Forex Brokers too.
- It typically takes 4 different FCM/RFEDs to offer an optimal set of choices needed to cover the best interests of all retail customers. The Guaranteed IB can only offer a single choice. A non-optimal FCM/RFED could harm the retail customer's ability to get the best value from a given Introducing Broker.
- The regulation puts American RFED/FCMs at a competitive disadvantage to their counterparts abroad. No other country prevents its IBs from representing multiple companies. At a time when American businesses are facing unprecedented global competition, it hardly seems constructive to handicap them by unnecessary and highly restrictive government regulations.

- In forcing IBs to operate as Guaranteed IBs, an inherent conflict of interest arises. The IB no longer represents the best interest of its customers, but rather the commercial interest of the dealer on which it is forced to exclusively rely.
- Under the proposed regulation, banks and other non-CFTC regulated Forex dealers, though still permissible counterparties, will lose their abilities to employ Forex IBs. RFED/FCMs will insist on exclusivity in order to provide the joint and several liability guarantees. This will force banks to stop using CFTC regulated solicitors and instead migrate towards unregistered or foreign companies.

**I am therefore asking you to offer an Independent Introducing Broker option as you currently do for Futures Introducing Brokers.**

Respectfully submitted,

Michael Fritz  
Mitchellville,MD

**From:** Curtis Montague <curtismontague@hotmail.com>  
**Sent:** Monday, March 22, 2010 11:53 AM  
**To:** secretary <secretary@CFTC.gov>; Curtis Montague <curtismontague@hotmail.com>  
**Subject:** Retail Forex Trading - Propose Regulations

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The U.S. Commodity Futures Trading Commission.

Sir/Madam,

I wish to urge you not to put forward the proposed "10-to-1 limitation" leverage in retail Forex customer accounts, refer RIN 3038-AC61.

This would be a disadvantage to all small retail account holders.

Thank you,

Curtis Montague

609 625 8440

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**From:** Ricardo Perez <rpdlv@aim.com>  
**Sent:** Monday, March 22, 2010 12:00 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** 75 FR 3281: Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries

---

Dear sir/madam:

From what I have read, the Commodity Futures Trading Commission is proposing setting a maximum value on off-exchange forex transactions of 10:1 for United States based dealers. Raising the margin requirement as the CFTC is proposing would be detrimental to small traders like myself. Right now, the broker I use allows very small positions to be taken with the 100:1 margin (the smallest is just \$10.00 US Dollars). This effectively reduces my total dollar exposure since I can trade the FOREX market with a minimal investment. Increasing the margin requirements by a factor of 10 would mean that I would now need \$100.00.

This is how I understand the new rule:

(please excuse me for repeating what you surely know better than I do)  
Under the current 100:1 margin requirement if I "go long" EUR/USD (buy the Euro/sell the U.S. dollar) at say 1.5000 and it drops to 1.4050, a position taking US \$10.00 will show a loss of \$5.00, which is a 50% drop in value. And if it goes the other way to 1.5050 it would show a profit of \$5.00.  
Under the new 10:1 rule the loss/gain would still be the same (\$5.00) but the percentage would of course be 5% now, since the margin requirement is now 10 times greater (\$100.00). But \$5.00 is still \$5.00 either way, so my loss would remain the same. Under the new proposed rules my only change would be that I would now need \$100 instead of \$10 to open the same position.

I understand that new traders may risk too much money without taking the time to practice their trading skills (most companies offer practice accounts), but pricing them out of the market by raising the margin requirements is not the way to reduce their losses. Rather, FOREX dealers could be asked to strongly encourage practice account use before any real trading is done so that new traders will know what to expect from this very volatile market. Some dealers (such as mine) have practice accounts that do not expire. This account has been of invaluable help to me in greatly reducing my real losses (so far minimal) in real trading. Other dealers have accounts that do not expire unless their balance reaches zero or are not used after a certain amount of days. I would guess that many new traders never bother with a practice account and hence risk their money without having developing any trading techniques beforehand. The CFTC could compile data (if available) as to what percentage of traders are actually profitable over a single year and have the FOREX dealers give out this information when someone inquires about opening an account, rather than vague disclaimers about how risky it is which is what you find in the dealers' documentation.  
And perhaps FOREX dealers could be asked to offer the 10:1 margin requirement as an option for account holders for those who feel more comfortable with it- even though it would mean investing a larger amount of money in the account.

In conclusion, I would strongly encourage the Commodity Futures Trading Commission to reconsider the margin change, since it does not solve the problem of inexperienced traders losing their money and it deprives small traders such as myself who are aware of the risks, of participating in the challenging but interesting FOREX market.

Sincerely,

Ricardo Perez

Coon Rapids, Minnesota USA

**From:** landa insurance services <landains@mts.net>  
**Sent:** Monday, March 22, 2010 12:07 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:**

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hi i totally agree, if there was any kind of change made they should at least allow a leverage of 100 to 1 as a minimum thanks;;; ken dilk ;;;;and rory landa

**From:** JCorrea <jcsniper@gmail.com>  
**Sent:** Monday, March 22, 2010 12:11 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of retail forex

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With all due respect Sir, please don't go ahead with the leverage changes. You will kill opportunity for smaller investors. Let us to decide. This is a free country. Isn't it?

THANKS

Jatir Correa  
Brazil.

**From:** Ari Rubin <trader4life4ever@gmail.com>  
**Sent:** Monday, March 22, 2010 12:21 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex Comment (RIN 3038-AC61)

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Dear CFTC Secretary,

I am merely an American citizen and independent Forex trader, but for the little it is worth I am firmly against this proposed regulation. Yes, high leverage also can mean high risk, but Americans, even those in positions of power, used to believe in liberty for the common man. To reduce across the board the leverage that American forex brokers can offer by 10 fold is terrifically drastic and unwarranted, and it would likely cause most if not all Forex firms based in America to close up shop because they would not be able to keep more than a fraction of their customers who have large trading accounts. It's important to note that the brokers believe that 100:1 margin does not create serious problems for their business models; if it did, they would not offer that level of margin. This highly restrictive proposed regulation would, however, do them considerable harm.

Since so many have already weighed in on the topic, I have chosen not to send the full response I had originally planned to provide. I will say that personally high margin trading provides opportunities to those who don't have large starting account balances to make significant gains in short periods of time. Yes, substantial downside risk is also a very real possibility with high margin trading, but that doesn't mean every trader's freedom should be taken away as a result. Again, if it were such a significant problem the brokers would be the ones wanting to take high margin access away from their customers, but quite the opposite is true - the brokers have unified in opposition to this regulation.

I have cut the rest of my message down to my proposed solution. If the CFTC is truly concerned about the safety of trader's funds, the solution isn't to impose a heavy-handed, highly restrictive, one-size-fits-all government edict. Instead, the CFTC should advise the market of its position on high margin levels and let each individual trader make the choice that's right for that person and his or her individual risk tolerance.

If anything is to be done, the following two elements are what I propose: 1) The CFTC should require only a signed risk waiver to be collected for new accounts from those traders who want high margin (100:1) access. This waiver would explain the risk of 100:1 trading, thereby giving the trader the information deemed important by regulators, and then allow the trader to sign the waiver to indicate that the risks are understood and that high margin access is needed anyway. 2) Each firm offering high margin access should declare that in the event of negative account balance shortfalls, the firm will protect its client by bringing the account value back up to zero (as some, if not all Forex brokers already do). That should be the extent of the proposed across the board regulation. If America is still truly the land of liberty, that is the proper way to handle this concern.

Thank you for your consideration,

Ari Rubin  
Los Angeles, CA

**From:** Nancy Paschen <NPaschen@NFA.Futures.Org>  
**Sent:** Monday, March 22, 2010 1:04 PM  
**To:** secretary <secretary@CFTC.gov>; Penner, William <WPenner@CFTC.gov>  
**Subject:** Comment Letter  
**Attach:** 2010 0322.pdf

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Good afternoon,

Attached is a Comment Letter regarding Regulation of Retail Forex.

Nancy Paschen



NATIONAL FUTURES ASSOCIATION

March 22, 2010

**Via E-mail: [secretary@cftc.gov](mailto:secretary@cftc.gov)**

Mr. David Stawick  
Secretary  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, NW  
Washington, DC 20581

Re: Regulation of Retail Forex

Dear Mr. Stawick:

National Futures Association ("NFA") appreciates the opportunity to comment on the Commission's proposed rules regarding the regulation of off-exchange retail foreign currency transactions ("forex"). NFA applauds the Commission for proposing these rules, which will both provide important protections to retail customers and bring greater regulatory certainty to the retail forex industry. Below NFA addresses a few of the more important aspects of the Commission's proposed rulemaking in areas relating to security deposits, trading practices, and the mandated registration requirements.

#### Security Deposits

The Commission proposes that retail foreign exchange dealers ("RFEDs") and certain futures commission merchants ("FCMs") acting as forex counterparties collect and maintain security deposits equal to ten percent of the notional value of each forex transaction with a retail customer.<sup>1</sup> As you are aware, NFA initially adopted its

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<sup>1</sup> In proposing its security deposit level, the Commission notes NFA's current leverage limitations and that FINRA has proposed to limit the maximum leverage limitation on certain retail forex transactions offered by broker-dealers to 4 to 1. NFA notes that FINRA may have a greater interest in addressing the financial integrity protection objective solely through a security deposit requirement and, therefore, set a higher percentage since FINRA broker-dealers engaging in retail forex are not subject to a \$20 million minimum net capital requirement. Moreover, NFA also notes that FINRA's percentage level may be higher since FINRA has not sought to address the



David Stawick

March 22, 2010

own security deposit requirements for forex transactions in 2003 when the Forex Dealer Member ("FDM") minimum net capital requirement was \$250,000. NFA Financial Requirements Section 12 mandates that NFA's Forex Dealer Members collect 1% of the notional value of transactions in ten different major currencies<sup>2</sup> and 4% of the notional value of transactions in other currencies.

In adopting our requirements, we were guided by two public policy objectives—the financial integrity of FDMs and the protection of retail customers who engage in these principal-to-principal transactions. Satisfaction of these two objectives led us to establish security deposit percentages that were approximately in line with the then existing margin requirements for exchange-traded foreign currency futures at the Chicago Mercantile Exchange ("CME"). NFA's security deposit requirements, like the SPAN margin levels set by CME, recognize that currencies can have differing risk and levels of volatility. Because of these factors, NFA established the security deposit requirement for transactions in the major currencies at a lower percentage than transactions in more exotic currencies.

Over the years, NFA has found that our security deposit requirements have served our two public policy objectives well. As to financial integrity, NFA's security deposit requirements help protect, in part, forex counterparties from absorbing losses of defaulting customers which, if significant, could affect the counterparty's capital and put the funds of other customers at risk. Although the prevention of counterparty default is always of paramount concern, the lack of bankruptcy protections afforded to forex customer funds significantly heightens this concern.

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customer protection objective separately by adopting the extensive risk disclosures requirements already in place by NFA and the new customer performance disclosures proposed by the Commission.

<sup>2</sup> Major currencies that qualify for the 1% security deposit are the British pound, the Swiss franc, the Canadian dollar, the Japanese yen, the Euro, the Australian dollar, the New Zealand dollar, the Swedish krona, the Norwegian krone, and the Danish krone.

David Stawick

March 22, 2010

To date, we are not aware of any situations in which an FDM's capital has been impaired due to its failure to collect customer debits. Of course, we also recognize that forex counterparties generally use real-time systems for collecting security deposits so that as a position moves against a customer the counterparty draws on reserves from the customer's account to maintain the security deposit level of 1% or 4%, as applicable. Additionally, as the Commission recognizes, under current auto-liquidation practices forex counterparties usually close out customer positions before an account's losses exceed its initial investment. These auto-liquidation practices, implemented by most firms, distinguish the retail OTC forex from exchange traded futures. Our experience indicates, however, that not all FDMs have implemented these close-out practices and, therefore, a forex counterparty's financial protection remains an appropriate public policy rationale for a security deposit requirement.

As noted above, NFA's second public policy objective relates to customer protection and sales practices. We agree with the Commission that at certain leverage ratios even minor fluctuations in volatile currency markets can result in customers having their positions liquidated with significant trading losses resulting—much faster than retail customers may realize. Of course, the Commission's proposed Rule 5.18(i) relating to the quarterly disclosure of customer account performance also serves as a tool to satisfy this customer protection objective, and ensures that retail customers have a full understanding of the attendant risks and leverage involved in these transactions so that they may make an informed decision. This is particularly important in these counterparty transactions where an RFED or FCM is on the opposite side of the transaction, which differs from an exchange traded transaction in which an FCM acts only as an intermediary. NFA encourages the Commission to consider the impact of this disclosure, if adopted, in formulating its security deposit requirements.

Although, for the reason explained below, NFA has not changed the percentages in our security deposit requirements, we have amended Financial Requirements Section 12 in an effort to bolster this second public policy objective. Specifically, in February 2009, NFA eliminated a prior exemption for certain highly capitalized FDMs from collecting security deposits. At that time, eight of NFA's 21 FDMs had an exemption from collecting minimum security deposits. Of these eight, one offered leverage of 700:1, four offered leverage of 400:1, two offered leverage of 200:1, and one offered leverage of 50:1. One of the firms without the exemption also offered leverage of 50:1. Based on our experience, a proportionately greater number of the

firms that offered higher leverage had also been the subjects of NFA complaints, while neither of the firms that offered 50:1 leverage had ever been the subject of an NFA or CFTC enforcement action. These statistics not only indicate that higher leverage ratios can lead to abuses but also indicate that FDMs can compete while offering leverage of 100:1 or less. In eliminating this exemption, NFA was cognizant of the importance of balancing customer protection with both domestic and foreign competitive concerns,<sup>3</sup> particularly when regulations in this area could easily drive U.S. customers overseas to less regulated trading venues.

NFA acknowledges that the Commission in proposing its security deposit requirements relied upon the same two public policy objectives as NFA. Therefore, we encourage the Commission to follow two basic guidelines in adopting final requirements in this area that we also found beneficial.

First, since the foreign currency market is not static, NFA recommends that the Commission reject a one-size-fits-all approach to establishing security deposit requirements. Based upon currency risk and volatility factors, NFA believes that security deposit requirements should recognize differences between certain currencies. Therefore, NFA recommends that the Commission adopt an approach similar to NFA's current requirements that applies a different percentage to separate currency categories or groupings based on currency risk and volatility factors.<sup>4</sup> We also believe that setting a different percentage amount for each individual currency may be an alternative but is obviously more complicated to administer.

<sup>3</sup> NFA notes that a major U.S. bank offers retail forex trading with security deposit amounts ranging from 2% to 8% depending on the currency.

<sup>4</sup> NFA notes that the Investment Industry Regulatory Organization of Canada ("IIROC") takes a similar approach in setting forex margins. Specifically, the IIROC total margin requirement includes three components—a spot risk margin requirement, a term risk margin requirement, and a margin surcharge mechanism which adjusts the margin rate for a specific currency if the volatility of the currency exceeds a predetermined historic volatility threshold. Current margin rates are EUR/USD: 3%; USD/CAD: 3%; USD/GPD: 3.4%; USD/JPY: 3%; and CAD/SGD: 10%.

David Stawick

March 22, 2010

Second, whoever sets the security deposit percentage levels—the CFTC or an SRO—should recognize that the requirements must be flexible, and continually evaluated and adjusted, if necessary. For example, pursuant to NFA Financial Requirements Section 12, NFA's Executive Committee has the authority to adjust NFA's security deposit requirements under extraordinary market conditions. Even absent extraordinary market conditions, however, NFA believes that security deposit requirements should be periodically reviewed and adjusted, if necessary.

To that end, NFA regularly compares our security deposit percentages to the CME's margin requirements, and we review our requirements in light of the prevailing practices in the forex market. As NFA noted in our February 23, 2009 submission letter to the CFTC regarding the amendments to Financial Requirements Section 12's security deposit requirements, CME margins are higher than they were at the time Section 12 was adopted. Specifically, as of December 24, 2008, margins for the major currencies averaged 5.6% and ranged from 3.5% to 8.2%. Margins for the other currencies averaged 8.1% and ranged from 3.2% to 12.5%. A more recent analysis shows that margins for the major currencies averaged 3.4% and ranged from 2.3% to 5.4%. Margins for the other currencies averaged 5.7% and ranged from 3.0% to 8.1%.<sup>5</sup> Given the 2008 data, NFA recognized in early 2009 that NFA Financial Requirements Section 12's security deposit percentages could be adjusted upward but we resisted proposing these changes pending the Commission's proposed security deposit rules.

NFA appreciates the Commission's efforts in balancing various competing interests and regulatory objectives in establishing security deposit requirements. NFA encourages the Commission to recognize the different market risks and volatility posed by different currencies and adopt requirements reflective of those differences as exchanges routinely do in establishing their margin levels. Additionally, regardless of who sets the security deposit requirements and the percentage amount(s), NFA urges the Commission to endorse or adopt some mechanism to allow for periodic review and adjustment of the requirements if necessary.

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<sup>5</sup> An analysis of listed currency contracts on NASDAQ OMX, formerly the Philadelphia Board of Trade, reveals an average margin of 1.3%, ranging from .99% to 1.47%, for major currencies and a margin of 6.27% for the Mexican Peso.



David Stawick

March 22, 2010

### Trading Practices

The Commission's proposed Rule 5.18(f)(3) requires that if a forex counterparty provides a new bid price that is higher or lower it must also provide a new ask price that is equally higher or lower. NFA fully supports this proposed rule but urges the Commission to clarify the proposal to ensure that all requote practices are objective and evenhanded and that a counterparty that requotes customers must do so regardless of the direction in which the market has moved and have in place symmetrical tolerance thresholds for requoting. Additionally, NFA recommends that the Commission also require counterparties to disclose to customers how orders that reach the platform at a price no longer available are handled. At this time, NFA also encourages the Commission to carefully consider any comments it might receive from forex counterparties regarding the proposed trading practices requirements to ensure that they are appropriately crafted to meet both regulatory objectives and forex business practices.

### Registration

For many years, NFA advocated that persons introducing forex accounts, managing forex accounts, or operating pools trading forex should have to register with the Commission. Requiring forex intermediaries to register with the Commission as introducing brokers ("IBs"), commodity trading advisors ("CTAs"), or commodity pool operators ("CPOs"), as applicable, is an extremely important customer protection feature. NFA also believes that the following technical amendments will provide greater clarity in the forex registration area.

The Commission's proposed rules provide that either an RFED or an FCM that is primarily and substantially engaged in traditional futures activity may act as a forex counterparty. The proposal requires any IB introducing retail forex accounts to an RFED or FCM that is primarily and substantially engaged in traditional futures activity to be guaranteed by that RFED or FCM. NFA believes that the Commission intends to require a forex IB guaranteed by an RFED to open and carry customer accounts exclusively with that RFED. As drafted, the proposed rules do not make this clear. NFA recognizes that in August 2007 the Commission's Division of Clearing and Intermediary Oversight issued an advisory that, among other things, indicated that Rule 1.57 encompasses forex transactions, but at that time the RFED counterparty category had

not been created and, therefore, the advisory only refers to guarantor FCMs. Moreover, Commission Rule 1.57(a)(1) would appear to impose this exclusivity requirement on IBs as to FCM guarantors, but not RFEDs. NFA recommends that Rule 1.57 be amended to reference both FCMs and RFEDs, or alternatively a new rule adopted to provide the required clarity.

NFA also believes that there are additional issues relating to an RFED's guarantee of forex IBs that require more clarity. Pursuant to the proposed rules, if a firm engages in retail forex and conducts a minimal amount of on-exchange business that is not enough to meet the "primarily and substantially engaged" criteria, it must also be registered as an FCM to engage in on-exchange futures. Further, an RFED is prohibited from entering into a guarantee agreement with an IB that conducts on-exchange futures business because an RFED alone cannot engage in exchange-traded futures business. Therefore, as written, the proposal creates some uncertainty regarding who an RFED that is also registered as an FCM ("RFED/FCM") may guarantee. For example, if an IB only conducts on-exchange futures activities, may an RFED/FCM guarantee the IB pursuant to its FCM registration? Additionally, if an IB is a "dual-purpose IB" that conducts both forex and on-exchange futures business may the RFED/FCM guarantee the IB? Finally, if an IB only conducts on-exchange futures business as an IB but is also registered as a CPO or CTA for purposes of managing forex accounts or operating forex pools, may an RFED/FCM guarantee the IB? NFA believes that RFED/FCMs should be permitted to guarantee IBs under the three circumstances described and requests that the Commission's final rules address these registration permutations.<sup>6</sup>

Lastly, NFA strongly encourages the Commission to provide firms with adequate time to register or comply once its rules become final and effective. Time will be necessary for not only new entrants but also current registrants if the Commission's rules are adopted as proposed. For example, NFA currently has over 100 independent introducing brokers ("IBI") Members that engage in retail forex activities. Many of these

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<sup>6</sup> NFA recognizes that the Commission's final rules could permit guaranteed and non-guaranteed IBs to introduce forex accounts, possibly satisfying its customer protection objectives by requiring non-guaranteed forex IBs to maintain a higher capital requirement than independent IBs dealing in exchange-traded products. Even in such a case, these questions must be addressed with regard to guaranteed IBs.



David Stawick

March 22, 2010

firms are also engaged in exchange-traded futures activities. As noted above, the Commission's proposed rules require any IB that introduces retail forex accounts to an RFED or FCM that is primarily and substantially engaged in exchange-traded futures activity to be guaranteed by that RFED or FCM. Therefore, NFA's current IBs may have to significantly alter their business. For example, if an IBI currently introduces its retail forex accounts to an RFED or FCM-only firm that is primarily and substantially engaged in exchange-traded futures activity, then the IBI must—(1) become a guaranteed IB of that RFED or FCM; (2) cease engaging in retail forex activities and remain independent; or (3) find another RFED or FCM-only firm that will guarantee it.

#### Conclusion

NFA commends the Commission and its staff for putting forth proposed retail forex requirements that will provide greater protection to forex customers and regulatory certainty to firms engaging in retail forex transactions. As always, NFA stands ready to assist the Commission in this endeavor. If you have any questions concerning this letter, please do not hesitate to contact me at (312) 781-1413 or [tsexton@nfa.futures.org](mailto:tsexton@nfa.futures.org).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas W. Sexton", written over a circular stamp or seal.

Thomas W. Sexton  
Senior Vice President and  
General Counsel

cc: William Penner ([wpenner@cftc.gov](mailto:wpenner@cftc.gov))

M:\MAMP\lir\_CFTC\_Comment\_Forex.docx

**From:** Kathleen Sinnott <kjsinnott@earthlink.net>  
**Sent:** Monday, March 22, 2010 1:14 PM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** cftcfeedback@fxdd.com  
**Subject:** 'Regulation of Retail Forex'

---

Regarding RIN 3038-AC61. II object to the reduction in leverage.\*\*

**Leave regs as they are....Do not change leverage!!!!**

**From:** Marjorie Miller <marjiemiller@gmail.com>  
**Sent:** Monday, March 22, 2010 1:15 PM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** President Barack Obama <president@messages.whitehouse.gov>; AmericanVoices@mail.house.gov; contact@wexlerforcongress.com; info@barackobama.com; info@hillaryclinton.com; info@kucinich.us; lloyd.doggett@mail.house.gov; Rep.Paul@mail.house.gov; SenateWebmail@cornyn.senate.gov; sf.nancy@mail.house.gov; Kay@email.texansforkay.com; Rep Michael McCaul <tx10ima@mail.house.gov>; cftcfeedback@fxdd.com  
**Subject:** When and why do you plan to put the small investors into a margin call? How does this help the economy?

---

Re: RIN 3038-AC61

Mr Chairman,

One more question before the comment deadline today: exactly how do you plan to do this margin/leverage change? Will you immediately just send everyone into a margin call? Isn't that like giving someone a car loan at one price and then raising the monthly payment after the contract is signed? How is this supposed to help the economy? How about the run on brokers and them going out of business as everyone flees to the UK brokers?

Marjorie Miller

**From:** Field Searcy <field@smartbusinessstech.com>  
**Sent:** Monday, March 22, 2010 1:11 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** FW: RIN 3038-AC61 "Regulation of Retail Forex"  
**Attach:** letter-to-CFTC.pdf

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March 22, 2010

Mr. David Stawick  
Secretary  
Commodity Futures Trading Commission  
1155 21st Street, NW.  
Washington, DC 20581  
Fax: (202) 418-5521

RE: RIN 3038-AC61"Regulation of Retail Forex"

Dear Mr. Stawick,

I've been a successful retail forex trader for 5 years and I am strongly opposed to limiting retail forex to 10:1 leverage. The effect of this regulation will not protect investors. It will either drive them out of the market or force them to go offshore. It will kill the retail forex market in the U.S.

It's not the government's responsibility to determine risk for investors, only to regulate the brokers, prevent fraud and keep a level playing field. If we try to live under this rule, we will only be incurring more risk because it will require smaller investors to have a much larger account to even get in the game. In fact, I'd be in favor of returning to the old 400:1 rule.

Plenty of others have posted reasons for NOT implementing this rule, so I will not repeat them. Suffice it to say, I suspect that those who are suggesting this rule have either never traded the spot forex market, or, it's being done on purpose to protect special banking interests.

If the CFTC was so concerned about the investing public, where were you during the Refco fiasco? Thousands of traders lost life savings because the CFTC allowed the bankruptcy court to bail out their banker friends instead of protecting the U.S. forex account holders as secured creditors. Why didn't you come to our aid then?

If you want to implement real consumer protections, why don't you require retail forex brokers to maintain segregated accounts, increase capital requirements of brokers, and treat forex traders as secured creditors in the event of a brokerage bankruptcy?

Respectfully,

Field Searcy  
3143 Garden lane Drive  
Marietta, GA 30062

March 15, 2010

Mr. David Stawick  
Secretary  
Commodity Futures Trading Commission  
1155 21st Street, NW.  
Washington, DC 20581  
Fax: (202) 418-5521

RE: RIN 3038-AC61 "Regulation of Retail Forex"

Dear Mr. Stawick,

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If you want to implement real consumer protections, why don't you require retail forex brokers to maintain segregated accounts, increase capital requirements of brokers, and treat forex traders as secured creditors in the event of a brokerage bankruptcy?

Respectfully,



Field Searcy  
3143 Garden Lane Drive  
Marietta, GA 30062

**From:** William Wilson <exp15@hotmail.com>  
**Sent:** Monday, March 22, 2010 2:06 PM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** exp15@hotmail.com  
**Subject:** Regulation of Retail Forex

---

RIN 3038-AC61

From: William Wilson in Las Vegas, NV

I support the comments about the proposed Forex rules submitted to you by the IB-Coalition.org organization.

I agree with the contents of their 10 page letter to you and urge you to carefully read and follow its suggestions.

In particular I suggest the following changes to the proposed rulings:

- First, I urged the CFTC to revise the proposed rules to permit a Forex IB to operate either as an independent IB subject to the same minimum capital requirements that apply to a futures IB or as a guaranteed IB.
- Second, I asked the CFTC to undertake a study of the retail Forex markets to assure that the rules it ultimately adopts are based on a solid factual understanding of the markets and are tailored accordingly.
- Third, I propose the CFTC defer to NFA to set appropriate leverage restrictions as it relates to the proposed 10:1 leverage. An onerous leverage restriction, such as this, creates opportunities for unregistered fraudulent schemes to exploit U.S. customers is contrary to the public interest.

Sincerely,

William Wilson

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This mail was sent via IB Coalition <http://ibcoalition.org/take-action/>

**From:** MICHAEL FRANKLIN <mfranklin20@msn.com>  
**Sent:** Monday, March 22, 2010 2:25 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

Dear Commodity Futures Trading Commission,

I have a Degree in Economics from the University of Colorado and I am a trader of the currency market. I am aware that there is a debate over new regulation that would require leverage in the Foreign Exchange Market to be 10 percent. I am currently trading with a one percent margin requirement and I know that this regulation would severely limit my ability to successfully trade the currency market. Beyond impacting me, this regulation could also drastically impact the liquidity of the US Dollar.

Speculation in the Foreign Exchange Market is an incredible investment opportunity for anyone that has the patience and discipline for it. However, there are many traders that do not have the right personality to be successful. I can only imagine that this proposed regulation came about due to the weak economy and the financial crisis, in order to prevent losses. Banks are more than willing to leverage Forex positions at a high rate because they are not risking any capital to do so. Losses in a highly leveraged Forex position are bore by only the trader, brokers have the ability to close a position before they take on any losses. Perhaps this regulation has been proposed in order to prevent small capital trader from risking too much money in speculative currency positions. Maybe this could be a good thing for those that lose too much capital, but this regulation is not fair to those that do not have problems with losses. This regulation would allow the government too much control over the financial markets, and will not allow the markets to govern themselves. Free markets, historically, have been the most profitable and efficient, in the long run regulation only creates inefficiencies . Also, allowing people to govern their own behavior is one most important rights that the United States was founded on. The government should not step in to tell someone they cannot trade. If they are losing, it should be only their responsibility to get out.

Most of the currency traded today is done so on a speculative basis, the rest is of course exchanged so that global trade can take place. This regulation would not directly affect the currency exchanged for trade, unless the purchase of goods and services has a future payment. In this case a speculative hedge position would be opened to prevent loss due to the rapid fluctuation of the market.

This bill affects the majority of the currency traded since it is speculative. The most impacted traders will be those with low capital, under \$100,000, since they need leverage to be successful. Those that trade with more money do not need leverage to be successful trading, many of these traders are the same people that were profiting from currency exchange when the market was not public. Therefore, this regulation is a regressive policy, to when the markets were less liquid and less accessible. It would be ensuring that the richest can continue to build their wealth, while low wealth individuals will lose one of the vehicles to acquire wealth.

In addition to reducing the ability of low capital traders to be in the market, this regulation could hurt the liquidity of the Dollar. This would be as a result of decreasing the amount of money being traded by players from the United States, since other countries would not be affected by the regulation.

Liquidity means more money is flowing through the markets. It allows orders to be processed without delay. It keeps the bid/ask spreads near zero because there is more than enough money available to be bought or sold at any price. Liquidity also ensures that the price being offered is the most accurate value of the dollar, this is largely because major players with high capital do not have the ability to influence the markets. The higher the liquidity the more free the market is, and the more free the market is the more efficient it is. The FED and Ben Bernanke know this, that is why they have been working full-time since 2007 to keep the markets as liquid and solvent

as they can be. It would be a mistake to make a policy that would take us back to the 1970's and undo what the FED has been working hard to guarantee. First we should be looking at restoring policies that have be enacted to fight the recession, instead of trying to fix something that is already working.

Sincerely,

Mike  
Colorado

**From:** Mark Rayonec <mrayonec@gmail.com>  
**Sent:** Monday, March 22, 2010 2:34 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail forex

---

I am opposed of the government regulation RIN 3038-AC61 changing leverage to 10-1 gives Americans a disadvantage to the rest of the world in this world wide market of forex, for the cftc to make this decision is wrong. You should not dictate what I want to risk. Thank you for your time.  
Concern trader

**From:** lynval hastings <valynhastings@yahoo.com>  
**Sent:** Monday, March 22, 2010 2:38 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

Dear Secretary,

As a member of the forex trading fraternity, I think that the proposed leverage change of 10:1 will definately cause a contraction in the number of traders in the industry, and the profitability of traders. Brokerage firms profits will be impacted , which might result in fewer brokerages firms , as well.

Please reconsider this proposal. Let the leverage stay at 100:1.

Thanks,

Regards ,

Lynval Hastings.

**From:** ELIKAN FRIEDMAN ESKENAZI <elyfriedman@hotmail.com>  
**Sent:** Monday, March 22, 2010 2:46 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Ref: Regulation of retail Forex RIN 3038-AC 61

---

In relation to this Regulation as a trader of the Forex Market, I must say that in my case for the type of long-term negotiations, I think that the implementation of this type of regulation for transactions I use to make is good, however I think that a strict provision of 10:1 leverage globally may be counterproductive, would be more appropriate to have a flexible regulation between 100:1 maximum to 10: 1 at least subjected to the trader criteria, to allow support different operational strategies in a secure, productive and transparent way. I not expected to give my opinion on this matter, because I believe that this type of regulation does not affect me, however given the clumsiness applied to the FIFO rule, which harms greatly to all traders in all transactions in currencies based on the dollar, I would like that my voice would be considered at this time, and also I would like to request the revision of FIFO rule, because there is no compensation at all in the application in such cases, I would just like to note on a small example the big error made in the application of that rule on foreign exchange transactions based on the dollar.

Contract long, bought at USD/JPY 123.00 and sold at USD/JPY 85.00, that implies a 3800 pips market movement, but at a pip value of approx. 1/0.85 at sell time, means a **loss of 4470 pips at a unit value pip**. Contract long, bought at USD/JPY at 85.00 and sold at USD/JPY 123.00, that implies also a 3800 pips market movement, but at a pip value of approx. 1/1.23 is only a **gain of 3089 pips at a unit value pip**, not enough to cover the loses of the forced operation of selling the "bad" contract first, and then buy a new one again at a "better price".

There is a huge difference, ¿Where is the FIFO compensation? , ¿ Was this rule imposed to make the traders lose more?, ¿Did you not realize this?. The FIFO standard is fair only in currencies that are not based on the dollar, at a constant pip value; the solution is not LIFO, the real solution is to let the traders decide which contract they want to sell first.

The same case is with the leverage, let the traders decide the leverage in a range and make that all FDM must publish a **clear** note about the risks implied in such decision and also they must sell a proportionally small lot size for each level of leverage taken, in this way for example:

For a 100:1 leverage, a lot size standard of 1:10, means that for a 10.000 account a 1.000 lot size; and for a 10:1 leverage a 100 lot size, this would be fine for both, traders and FDMs; evidently a lower leveraged account is better and safer for the traders in margin call cases, but with a proper lot size it would be also a good business for the FDMs.

Thank you for letting express my opinion at this time.

---

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**From:** Alexander Sloan <retired.alex@hotmail.com>  
**Sent:** Monday, March 22, 2010 2:50 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

Dear Sir:

This is in reference to: RIN 3038-AC61. I strongly feel that the leverage in retail forex accounts should remain at 100-to-1. A trader should have the right to choose the amount of leverage that is appropriate for his/her appetite.

Thank you,  
Alexander Sloan III

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**From:** JAC International Group <news@jacig.com>  
**Sent:** Monday, March 22, 2010 2:50 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

RE: RIN 3038-AC61

I object to the proposed mandatory 10:1 leverage ratio on Retail FOREX trading.

By eliminating my access to higher leverage, you are presuming to know better than I do what is best for me. You cannot know that. For example, I have 30 years experience as a professional junk bond trader - I know a thing or two about risk. Did you know that about me? No, you cannot possibly verify every trader's credentials so instead you create a blanket rule that puts all traders in the 'beginner' class.

Chairman Gensler stated before the House Agriculture subcommittee that the intent of the rule is to "protect the public". From whom? Themselves? Your proposed reduction in leverage serves no valuable purpose to the retail trader but once again puts a government agency between me and wealth creation. Other forms of investment allow me to choose the degree of risk I'm willing to accept and the market teaches me if I didn't educate myself beforehand. For example, I could invest in Blue Chip stocks or, on the other end of the spectrum, Junk bonds. Or I could invest in Fine Art, Jewelry or collector Automobiles. In order to do so I must first understand the risks; if I do not, the market takes care of my ignorance.

I agree with the Lawmakers and Brokers who've objected to this restriction: it serves no purpose but to restrain competition and will result in the collapse of the US FOREX market.

Please eliminate the leverage restriction from your proposed regulations.

Kindest Regards,

Jo-Ann Chianella  
480-430-3580

**From:** Bern Foley <bern\_foley@hotmail.com>  
**Sent:** Monday, March 22, 2010 2:58 PM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** cftcfeedback@fxdd.com  
**Subject:** 'Regulation of Retail Forex'

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**RIN 3038-AC61.**

Changing forex leverage to 10:1 is not beneficial to forex traders. it will reduce the number of players and hence reduce liquidity in the markets. This WILL NOT AFFECT THE BIG PLAYERS. it is a waste of time and will only weed out retail traders.

If you want a competitive market then this is not the way to go.

Mr Bernard Foley.  
Forex trader.

---

Do you want a Hotmail account? [Sign-up now - Free](#)

**From:** Timt <timt@sti.net>  
**Sent:** Monday, March 22, 2010 3:18 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

RIN 3038-AC61  
Dear David Stawick,

Concerning the 10 to 1 leverage..... I think it would be detrimental to the individual forex investor as well as the U.S. broker. The Government always has such a knee jerk reaction to things! Why not try 75 to 1 or even 50 to 1 if you fell the need to limit the individual investors return. The Government has already taken away hedging which was a safety net to those investor's who knew how to use it. In any type of trading there are rules of engagement and education needed. Its the individual investor's responsibility not the Governments. The change in leverage would only affect the individual investor not the institution with plenty of capital.

Sincerely,  
Timothy Thornton

**From:** Dr Warrick Botha <warrickbotha@iburst.co.za>  
**Sent:** Monday, March 22, 2010 3:24 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail

---

To whom it may concern

Please do not restrict the leverage of our forex accounts.

Identification Number **RIN 3038-AC61**

Thank You

**Dr Warrick Botha**  
**(Chiropractor)**  
Suite 117B Musgrave Park  
18 Musgrave Rd, Berea, Durban, 4001  
Tel: 031 2024724  
warrickbotha@iburst.co.za

**From:** Cole Flournoy <cole@forexonthego.com>  
**Sent:** Monday, March 22, 2010 3:24 PM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** cole@forexonthego.com  
**Subject:** Regulation of Retail Forex

---

RIN 3038-AC61

From: Cole Flournoy in Richmond, VA

Dear Mr. Stawick,

The CFTC's fundamental goal is to protect US traders. However, sections of the proposed rules for "Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries," 75 FR 3282 (Jan. 20, 2010) have unintended consequences which will lead to widespread abuses of US traders.

The CFTC and NFA together represent the most comprehensive and effective Forex regulatory organization in the world. Today, traders seek out NFA registered firms so that they can feel comfortable trading with firms subject to this regulation. However, if the CFTC proposal goes into effect as is, the majority of US Forex traders will, in effect, be forced to trade with non-regulated firms putting themselves at great risks for abuses. We have already seen a clear example of this occur on a smaller scale. When the anti-hedging rules were set in place, US regulated firms became the only firms in the world required to force these rules upon their clients. Educated clients who understood the associated costs and issues of hedging demanded ways that they could continue to trade with their long used hedging strategies and techniques. This caused a an industry wide transition to move clients from US based (NFA regulated) accounts, to oversees accounts which were not under this regulation. Even though clients were generally skeptical of leaving their NFA regulated broker protections, they felt it was their only option to continue their trading strategies.

If either the requirement for IB's to be guaranteed by a single broker, or the 10:1 leverage limitation is put into place, we will see this migration (clients moving from NFA regulated brokers to non-regulated brokers) on a much larger scale. It is in the interests of US traders, and therefore the CFTC, that US regulated firms be able to stay competitive with non-regulated firms.

By requiring Independent IB's to be guaranteed by a single broker, many businesses who fundamentally rely on working as an IB for multiple brokers will be faced with the choice of either going out of business, or moving their business to locations not subject to this regulation. IB's provide valuable products and services to a large portion of retail Forex traders. If US based traders wish to continue using these products and services, they will have no option but to use the non-regulated IB's who offer them.

I ask that the CFCT please consider the severe overall loss of US retail Forex trader protections by imposing these unneeded limitations on Independent IB's who willingly choose to be regulated by the NFA and meet minimum net cap requirements.

Sincerely,  
Cole Flournoy  
CEO, Forex On The Go  
NFA, CFTC Member ID 0409594

--

This mail was sent via IB Coalition <http://ibcoalition.org/take-action/>

**From:** cn\_kp <cn.kp.09@gmail.com>  
**Sent:** Monday, March 22, 2010 3:36 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

Sir:

Re: Public comment on RIN 3038-AC61

The government's intention to raise the approximate margin requirement tenfold for retail forex trading in the US is poorly thought out for consequences and economic freedom. It is another signal to markets that open competition, productive innovation in financial services, and economic growth are not goals of the Administration.

I am not an owner or employee of any brokerage or similar service provider. The government's prospective altering of a practice that has a proven track record of success as a mechanism for individuals for about 15 years, and for institutions for about 3 times as long, will deny investment / trading prospects to the vast majority of participants in the retail forex market, by reducing proportionate profitability drastically. Daily price movements, as a percent of gross unit contract value of a given currency are very small, hence originally lending itself to trading margins that were typically 1%, or sometimes less.

Apparently the government is more interested in responding to appeals from the National Futures Association, including campaign contributions, in order to effectively force some of the remaining depleted business onto exchanges, where they can make fees on transactions, rather than have investors pay no fees now. Further, the government apparently overlooks the suitability requirements for participants, as well as the individual requirement to learn how to trade and to manage risk. Perhaps the CFTC sees itself evolving into a quasi-parental type organization, whereby it tells the marketplace what the products, terms, and availability will be in order to show that it is "regulating". The problem is that we live in a world wide marketplace, and the industry would be decimated. It is unfortunate that this ruling would put thousands of employees, and hundreds of small businesses out of operation. It would deny millions of people the opportunity to make reasonable profits, in turn helping the economic recovery. No other country in the world is so gratuitously restrictive with its citizens regarding forex trading.

This ruling would deny freedom of choice and opportunity. The government further has no conspicuously productive plans to educate people in trading and risk management, which is where its efforts would be beneficially constructive. It is a shame that there is little or no balance as to consequences, and lack of positive outcome for the national business environment in your proposal. Your agency's mandate should be to promote clean and transparent regulations for the conduct of commerce, not restrictions which decimate a bonafide activity and industry for the sake of "looking tough on the finance industry" to Congress.

I hope you will re-evaluate your proposal and make productive moves instead of destructive ones.

Regards,

Charles Northeimer  
1820 Chautauqua Trail  
Malvern, PA 19355

**From:** Charles Lewis <clewis33@twcny.rr.com>  
**Sent:** Monday, March 22, 2010 3:41 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

Greetings,  
Please say No to RIN 3038-AC61.  
This proposal is a bad one for the retail forex trade...  
Thanks,

C. Lewis

**From:** Charlie Delano <cdelano@fxcm.com>  
**Sent:** Monday, March 22, 2010 3:43 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Re: Regulation of Retail Forex - RIN 3038-AC61  
**Attach:** FXDC Comment Letter.pdf

---

Dear Mr. Secretary,

Attached is a comment letter from the Forex Dealers Coalition. If you have any questions please feel free to contact me at your convenience.

Best Regards,

Charlie Delano  
Director of Government Affairs  
Forex Capital Markets  
2701 Dallas Parkway, Suite 600  
Plano, TX 75093

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March 19, 2010

Mr. David Stawick  
Secretary  
Commodity Futures Trading Commission  
1155 21<sup>st</sup> Street, N.W.  
Washington, D.C. 20581

Re: Regulation of Retail Forex – RIN3038-AC61

Dear Mr. Stawick:

The Foreign Exchange Dealers Coalition (“FXDC”) is a trade association comprised of 9 of the largest U.S.-registered Forex Dealer Members which collectively account for the overwhelming majority of off-exchange retail forex transactions (“Forex”) executed by Commodity Futures Trading Commission (“CFTC”) - registered counterparties. The FXDC appreciates this opportunity to submit its comment on the Commission’s proposed rules, RIN3038-AC61 (“the January 20<sup>th</sup> Proposal”). The FXDC has been and remains a staunch advocate in support of the CFTC’s goal of creating a well-regulated domestic retail forex market that is transparent and provides robust customer protection. The FXDC believes the January 20<sup>th</sup> Proposal will go a long way towards achieving these goals.

FXDC, however, believes that the January 20<sup>th</sup> Proposal contains one provision that if adopted will have a devastating impact on the retail Forex industry, drive it largely overseas, and on balance, offset many positive provisions included in the January 20<sup>th</sup> Proposal. This provision, “Proposed Regulation 5.9 – Security Deposits for Retail Forex Transactions,” would restrict leverage on retail forex transactions to a level of 10:1, which is a 90% reduction from the present maximum leverage level of 100:1 permitted under Section 12 of the National Futures Association’s (“NFA”) Financial Requirements, which was recently enacted by NFA on November 30, 2009.

The FXDC appreciates the CFTC’s concern regarding the possibility of a customer losing more money than they have on deposit in their account due to currency fluctuations in the market. However, the FXDC would like to point out that Forex dealers utilize radically different risk management protocols than do Futures Commission Merchants, which strictly trade on-exchange futures. Retail Forex dealers rely on electronic systems which automatically liquidate customer trades and prevent negative debit balances when an account is subject to a margin call. In regards to a related CFTC concern about the absence of bankruptcy protections available to retail Forex traders – (specifically, customer funds segregation), the FXDC is aware of this issue and has been working diligently with Congress to ensure this issue is addressed in the U.S. Bankruptcy Code. In the interim, requiring traders to post a larger margin deposit would only serve to put more customer capital at risk in the event of bankruptcy.

Should the 10:1 leverage provision be adopted, the FXDC would like to reiterate its concern about the inability of U.S.-based Forex dealers to compete with competitors from overseas (primarily in the United Kingdom where the Financial Services Authority imposes no comparable leverage limits on Forex dealers). As demonstrated by the over 8,000 comment letters to the CFTC to date, many despondent Forex traders will choose to take their business outside the United States if 10:1 leverage is imposed. Many of these traders may also choose to trade with foreign, unregulated dealers thus leaving them susceptible to fraud.

The FXDC respectfully submits that the CFTC withdraw proposed regulation 5.9 and maintain the NFA's current leverage regime (100:1 major currencies, 25:1 on exotic currencies) that went into effect last year. We sincerely thank you for your time and consideration.

Signed:



Drew Niv  
Chief Executive Officer  
Forex Capital Markets LLC  
32 Old Slip  
New York, NY 10005



Gary Tilkin  
President & CEO  
Global Forex Trading  
4760 East Fulton Rd., Suite 201  
Ada, MI 49301



Glenn Stevens  
Chief Executive Officer  
Gain Capital Group  
135 Route 202/206  
Bedminster, NJ 07921



Todd B. Crosland  
President  
Interbank FX LLC  
3165 East Millrock Drive  
Suite 200  
Salt Lake City, UT 84121



Vera Hawkin  
Chief Executive Officer  
Capital Market Services LLC  
Empire State Building  
350 5<sup>th</sup> Avenue, Suite 6400  
New York, NY 10118



Emil Assentato  
Chairman  
FX DirectDealer, LLC  
75 Park Place, 4<sup>th</sup> Floor  
New York, NY 10007



Michael Cairns  
Chief Executive Officer  
FX Solutions, LLC  
1 Route 17 South  
Saddle River, NJ 07458



Michael Stumm  
President & CEO  
Oanda Corporation  
140 Broadway, 46<sup>th</sup> Floor  
New York, NY 10005



Yaroslav Shevchenko  
Managing Director  
Alpari (US), LLC  
14 Wall Street, Suite 5H  
New York, NY 10005

**From:** maki Izadi <makiizadi@gmail.com>  
**Sent:** Monday, March 22, 2010 3:48 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** comment on proposed changes

---

I wish to voice my opposition to the proposed changes influencing the currency market activities. Any broad interference in this exchange will lead to further disadvantage for the U.S. based exchanger. Perhaps what can be suggested as appropriate is a proposal geared towards awareness & education of the risks involved in such an exchange.

Thank you,

S. Izadi

**From:** Jason Murry <ideaman99@msn.com>  
**Sent:** Monday, March 22, 2010 3:47 PM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** justinphinisee@gmail.com  
**Subject:** "Regulation of Retail Forex"

---

Dear CFTC Administration,

Re: RIN 3038-AC61

I am writing regarding proposed rule changes to reduce current Forex Leverage from 100:1 to 10:1 and the possibility that the CFTC and NFA Seek to extend its authority to off shore Brokerage Firms with US clients.

First I would like to express that I am very disappointed in the proposed rules changes. I feel that that Account leverage should be decided by the Individual Trader as well as remain dynamically adjustable. In my opinion if CFTC is seeking to protect the individual trader efforts should be to focus ensuring that the proper education is available and promoted monitor the integrity and insuring that brokers/dealers become more transparent in their day to day operations.

As I am writing this I have noticed that many other investors share my same sentiment about this issue. I appreciate that CFTC Administration recognizes the value of having a dialog with the traders it's rules and rule changes affects. It seems the CFTC is a just bit out of touch on how to best serve or protect individual traders.

So I hope all this feedback is not taken lightly and further continues the efforts of the CFTC to maintain a dialogue with individual traders. I look forward to a response that indicates the CFTC is listening and working towards the benefit of the individual trader as opposed to working against us.

Thanks for your time and for listening.

Sincerely,

Jason L. Murry  
Los Angeles, CA  
760.214.8332

**From:** John Blattler <john\_blattler@msn.com>  
**Sent:** Monday, March 22, 2010 3:53 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

To the CFTC Secretary,

Regarding the proposed changes to the margin requirement in the matter of foreign exchange currency trading I must indicate my disagreement to such a proposal. To change the requirement from 100:1 to 10:1 is a direct affront to small traders. In being involved in with such trading activity each individual is informed of such risk through the disclosures made by the company offering the trading opportunity. It is incumbent upon the individual to determine the amount of risk one is able to withstand in any trading no matter investment venture one is giving attention to.

All the proposed change does is cut out the small trader leaving only major entities to participate in this type of trading. Not only does this discourage the small trader and curtail his trading activity, it will also harm the broker offering such services as their account numbers will diminish as the small trader disappears from their books. At a time when the economy is in downturn is no time to change regulation which in turn will diminish revenue in the industry.

John Blattler  
4 Mores Creek Rd.  
Boise, ID

**From:** Bob LaRock <runoff@lombardisitalian.com>  
**Sent:** Monday, March 22, 2010 4:01 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** REGULATION OF RETAIL FOREX

---

**TO THE COMMODITY FUTURES TRADING COMMISSION:**

**I OBJECT TO CHANGING OR LIMITING THE LEVERAGE OF RETAIL FOREX FROM 100 TO 1 DOWN TO 10 TO 1.**

**TRADERS IN ANY OF THE MARKETS NEED TO STUDY THEM CAREFULLY AND PAPER TRADE THEM SETTING PROFIT AND LOSS LIMITS UPON ENTERING ANY TRADE AND ACHIEVING A HIGH SUCCESS RATE BEFORE TRADING WITH REAL MONEY.**

**THOSE THAT DO NOT USE THIS PRUDENT PROCESS CANNOT BE SAVED FROM THEMSELVES AT ANY LEVERAGE LEVEL.**

**THE EXISTING LEVERAGE ALLOWS PEOPLE TO START AN ACCOUNT WITH LESS THAN \$1000 AND PUT UP AS LITTLE AS 1% IN ANY ONE TRADE. THIS MARKET MAKES IT POSSIBLE FOR THE LITTLE GUY TO PROFIT \$100 WITHOUT HAVING TO BUY 1000 SHARES OF SOME STOCK TO MAKE THE SAME AMOUNT.**

**THE PROPOSED LEVERAGE CHANGE WOULD MEAN THAT THE SMALL TRADER WOULD HAVE TO RISK 10 TIMES AS MUCH OF HIS ACCOUNT TO ACHIEVE THE SAME REWARD.**

**THIS PROPOSAL TO SAVE THE RECKLESS IS A PUNISHMENT FOR THE LITTLE GUY TRADER THAT HAS STUDIED AND PRACTICED THIS RETAIL 4X MARKET AND HAS SUPPLEMENTED HIS INCOME FROM SOCIAL SECURITY OR HIS LOW PAYING JOB.**

**THIS IS SUPPOSED TO BE THE LAND OF OPPORTUNITY WHERE THE LITTLE GUY CAN PULL HIMSELF UP BY HIS OWN BOOTSTRAPS. DON'T PUT UP THESE ROADBLOCKS THAT PREVENT INDIVIDUAL PROGRESS AND INITIATIVE.**

**SINCERELY,**

**ROBERT G. LAROCK**

**10426 60TH AVE. WEST  
MUKILTEO WA 98275**

**From:** ELIKAN FRIEDMAN ESKENAZI <elyfriedman@hotmail.com>  
**Sent:** Monday, March 22, 2010 4:10 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** FW: Ref: Regulation of retail Forex RIN 3038-AC 61

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From: elyfriedman@hotmail.com  
To: secretary@cftc.gov  
Subject: Ref: Regulation of retail Forex RIN 3038-AC 61  
Date: Mon, 22 Mar 2010 18:45:59 +0000

In relation to this Regulation as a trader of the Forex Market, I must say that in my case for the type of long-term negotiations, I think that the implementation of this type of regulation for transactions I use to make is good, however I think that a strict provision of 10:1 leverage globally may be counterproductive, would be more appropriate to have a flexible regulation between 100:1 maximum to 10: 1 at least subjected to the trader criteria, to allow support different operational strategies in a secure, productive and transparent way. I not expected to give my opinion on this matter, because I believe that this type of regulation does not affect me, however given the clumsiness applied to the FIFO rule, which harms greatly to all traders in all transactions in currencies based on the dollar, I would like that my voice would be considered at this time, and also I would like to request the revision of FIFO rule, because there is no compensation at all in the application in such cases, I would just like to note on a small example the big error made in the application of that rule on foreign exchange transactions based on the dollar.

Contract long, bought at USD/JPY 123.00 and sold at USD/JPY 85.00, that implies a 3800 pips market movement, but at a pip value of approx. 1/0.85 at sell time, means a **loss of 4470 pips at a unit value pip**. Contract long, bought at USD/JPY at 85.00 and sold at USD/JPY 123.00, that implies also a 3800 pips market movement, but at a pip value of approx. 1/1.23 is only a **gain of 3089 pips at a unit value pip**, not enough to cover the loses of the forced operation of selling the "bad" contract first, and then buy a new one again at a "better price".

There is a huge difference, ¿Where is the FIFO compensation? , ¿ Was this rule imposed to make the traders lose more?, ¿Did you not realize this?. The FIFO standard is fair only in currencies that are not based on the dollar, at a constant pip value; the solution is not LIFO, the real solution is to let the traders decide which contract they want to sell first.

The same case is with the leverage, let the traders decide the leverage in a range and make that all FDM must publish a **clear** note about the risks implied in such decision and also they must sell a proportionally small lot size for each level of leverage taken, in this way for example:

For a 100:1 leverage, a lot size standard of 1:10, means that for a 10.000 account a 1.000 lot size; and for a 10:1 leverage a 100 lot size, this would be fine for both, traders and FDMs; evidently a lower leveraged account is better and safer for the traders in margin call cases, but with a proper lot size it would be also a good business for the FDMs.

Thank you for letting express my opinion at this time.

ELIKAN FRIEDMAN ESKENAZI  
TRADER

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**From:** Michael Stumm <stumm@oanda.com>  
**Sent:** Monday, March 22, 2010 4:11 PM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** Michael Borland <mborland@oanda.com>  
**Subject:** Regulation of Retail Forex  
**Attach:** CFTC letter v2.pdf

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Dear Mr. Stawick,

please find attached our comments with respect to the proposed rule on **Regulation of Retail Forex (RIN 3038-AC61)**

We unsuccessfully tried to fax it to your (202) 418 5521 number, as it appears your fax machine/line is down.

Kind regards,

Michael Stumm  
OANDA Corporation

March 22, 2010

**Via E-mail: [secretary@cftc.gov](mailto:secretary@cftc.gov) and Fax: (202) 418-5521**

Mr. David Stawick  
Secretary  
Commodity Futures Trading Commission  
1155 21<sup>st</sup> Street, NW  
Washington DC 20581

**Re: Regulation of Retail Forex --- RIN 3038-AC61**

Dear Mr. Stawick,

OANDA very much welcomes the Commission's proposed rules regarding the regulation of off-exchange retail foreign currency transactions ("forex"). We are particularly pleased with the removal of the so-called "Zelener" loophole, the anti-fraud measures, the introduction of additional transparency, the financial requirements, and the increased regulatory oversight of Introducing Brokers ("IBs"), Trading Advisors, and Pool Operators.

I would like to take this opportunity to address some of the more important aspects of the Commission's proposal. As co-founder and CEO of OANDA Corporation (an NFA-registered Forex Dealer Member and CFTC-registered FCM operating as a forex market maker since 2001), as Chairman of the National Futures Association (NFA) Forex Dealer Member Advisory Committee, and as a Professor at the University of Toronto, I believe my insight into the forex market and its operations qualifies me to comment on the proposed rules.

OANDA has always supported regulatory oversight of the industry and the protection of retail forex customers. As one of the world's leading FDMs and the most highly capitalized FDM registered with the NFA, OANDA agrees fully with the intent and objectives of the rules proposed by the Commission. However, OANDA has serious concerns with §5.9 limiting leverage to 10:1, and minor concerns with:

- §5.5(e) requiring the disclosure of the number of accounts and the percentage of those that were profitable / unprofitable;
- §5.16 prohibiting guarantees against customer loss; and
- §5.18(f) restricting requoting.

We outline our reasoning below.

### **§ 5.9 Security deposits for retail forex transactions.**

OANDA strongly objects to the 10:1 leverage limit stipulated by the proposal on the grounds that:

- a. it is not in the best interest of the retail trading public in that it increases client risks;
- b. the choice of 10:1 appears to be arbitrary and unreasonable;
- c. it is highly anti-competitive; and
- d. it weakens the business environment in the U.S.

#### ***Choice of 10:1 increases the risks for retail trading clients***

Restricting leverage to 10:1 actually increases the risks faced by the retail trading public in several ways. The most immediate impact is that clients will be forced to deposit a greater amount of funds with their FDM in order to trade at their accustomed levels, and arguably, FDMs provide less security on deposited funds than banks and savings institutions where funds are protected by FDIC insurance, and they provide less security than FCMs where client funds are segregated.

Under these proposed rules, a \$1 million position, say, in USD/CAD at 10:1 leverage will require a deposit of \$100,000. By way of contrast, under the current NFA limit of 100:1 this same position requires a deposit of only \$10,000. In other words, with a leverage limit of 10:1, clients risk \$100,000 of capital whereas they only risk \$10,000 with a leverage limit of 100:1. (Note that all FDMs have implemented real-time margin checking with auto-liquidation, where the positions are closed automatically when margin capital becomes insufficient, thus limiting a client's losses to the amount deposited.)

Secondly, lowering leverage to a maximum of 10:1 will lead to an increase in the number of margin calls clients will incur, resulting in greater loss of clients' capital. To understand why lower leverage counter-intuitively increases (and not decreases) the number of margin calls incurred, one must understand that the vast majority of clients trade responsibly and do not typically trade close to their margin limit. At OANDA, for example, the average client trades using an average leverage of 4:1.

For these clients, having higher leverage available is important because it allows more leeway for those short periods when currency price movements are particularly volatile. Indeed, this is the primary defence used to manage the risk of short-term volatility triggering a margin call. With lower leverage restrictions, clients will be forced to trade closer to the margin limit because of the attendant higher capital requirements. As a result, they will be more susceptible to margin calls and find it more difficult to preserve their capital.

As an analogy, vehicle engines do not need to be very powerful to maintain 55 miles per hour driving on a highway, but more power is needed for short bursts to ensure sufficient acceleration to highway speeds without disrupting the overall flow of traffic. Similarly,

higher leverage is needed during short periods of time to better deal with the short-term volatility that often follows an event such as an important news announcement.

We have statistically analysed the frequency of margin calls that occurred on OANDA FXTrade accounts over the last 5 years, and were able to substantiate that clients trading at 10:1 incurred margin calls 30% more frequently than clients trading at 20:1.

Finally, a 10:1 leverage limit may add further to the risks of those this proposed amendment seeks to protect, because many clients, for whom having a leverage larger than 10:1 is important, will likely take their business elsewhere and begin trading in a jurisdiction that offers higher leverage. For these clients, the danger, of course, is that they could very well be moving their business to a location with less stringent regulatory requirements, where they are far less protected.

### ***The choice of a 10:1 leverage limit appears arbitrary and unreasonable***

A significant issue with the proposed 10:1 leverage restriction is that the choice of 10:1 appears arbitrary. No scientific, economic, financial, or empirical reasoning behind the choice of 10:1 has been provided. The proposal states that the Commission selected 10:1 because FINRA was proposing 4:1, while the NFA recently reduced the maximum leverage to 100:1, and 10:1 falls somewhere between these two limits. However, FINRA's proposal for 4:1 was chosen just as arbitrarily. Moreover it would apply to firms that have significantly lower capital requirements. NFA's 100:1 restriction – in effect since November 2009 – at least has some empirical reasoning behind it. The NFA – rightly, in our view – observed that leverages as high as 200:1 or even 400:1 were not healthy to most trading clients, and hence they decided to bring it down to 100:1.

This raises the question of why 10:1 is a reasonable limit. Why is 20:1 or 30:1 or 50:1 or 100:1 unreasonable? It is notable that other very strong and conservative regulatory regimes allow FDMs to offer significantly more leverage than what the Commission is proposing. For example:

- in Great Britain, the FSA allows virtually unlimited leverage
- in Singapore, the MAS allows 50:1
- in Japan, the JFSA allows 50:1, with a further tightening to 25:1 next year

While some believe that the regulators in these jurisdictions will also further tighten leverage should the Commission adopt a limit of 10:1, I would argue that these jurisdictions fully understand the economic and business advantages of allowing higher leverage than the proposed U.S. limits. Further, I would suggest that with the potential inflow of capital and creation of jobs, it is unlikely that non-U.S. regulators will adopt 10:1 in order to maintain a competitive advantage.

There should be some (scientific, economic, financial, or empirical) reasoning behind any limit on leverage. In particular, we believe that a static, one-size-fits-all rule, as is currently being proposed, does not take real market conditions into account. Different currency pairs have different historical volatilities that can change significantly over time, and different currency pairs have different degrees of liquidity. Hence, we would argue that any rule on leverage should take these factors into account. In that sense, we believe

that the Canadian regulators have taken a more sensible approach in limiting leverage, since the leverage limit they impose is a function of a currency's volatility. For example, the Canadian IIROC imposes a leverage limit of:

- 33:1 on EUR/USD and other major, highly liquid currency pairs, such as the USD/CAD;
- 25:1 on USD/JPY; and
- 10:1 on USD/SGD.

Canadian FDMs are also required to monitor volatility of each currency pair and automatically reduce leverage if volatility increases unexpectedly. At least this approach is rooted in some reasoning. (For the formal regulation 100.2(d), see <http://iiroc.knotia.ca/Knowledge/View/Document.cfm?Ktype=445&linkType=toc&dbID=200706346&tocID=428>)

In a further indication that the 10:1 leverage limit is arbitrary, the CFTC lists two reasons for limiting leverage to 10:1 in the new proposed rules:

1. to protect the clients from losing more than their account balance if their positions cannot be closed out in a timely fashion because of the “extreme volatility of the foreign exchange markets”, and
2. to protect against counterparty risk should the FDM become insolvent.

These are worthy objectives. However, as reasons for limiting leverage, neither holds much merit in today's retail forex market. Reason (1) above does not take into account the fact that all NFA-regulated FDMs have implemented sophisticated technology to monitor margin-checking in real time, and to automatically liquidate client positions as soon as the account balance falls below margin requirements. This limits the losses a client can incur and is in direct contrast to how typical FCMs monitor margin requirements.

OANDA, for example, checks the margin of every account every second. This technology was tested several years ago when the price of Silver dropped by 15% within 30 minutes – one of the most extreme market moves imaginable. Yet even with such historic price movements, clients did not lose more than their account balances.

Moreover, Reason (1) above does not take into account the fact that:

- forex prices on the major pairs are, despite conventional thinking, actually far less volatile than equity prices or commodity futures prices;
- the forex market is open and active 24 hours a day (in contrast to the futures and equity markets); and
- the forex market is the most liquid market in the world, and is several orders of magnitude more liquid than both the futures and equity markets.

As for Reason (2) above: limiting leverage does not help protect against counterparty risk. This is better addressed by increasing capital requirements, and by protecting client funds by allowing them, for example, to reside in segregated accounts. Besides, counterparty risk has not played a factor in spite of the recent financial system turmoil --- we are unaware of there being even one case of an FDM regulated by the CFTC/NFA to

have become insolvent, placing client funds at risk. In fact, the currently regulated FDMs are far better capitalized than most financial firms – especially when one considers the larger banks. The ratio of client deposits to FDM capital ranges from 1:1 to 5:1.

These facts indicate that the risks the CFTC are trying to address are significantly lower for OTC spot forex trading than for any other market. Despite this, the CFTC allows close to 50:1 leverage on, say, EUR/USD futures (a point we will address below). It is also important to point out that the FDMs themselves do not enter into leveraged positions (a la Lehman's), and hence, are themselves not exposed to the risks associated with leveraged trading.

### ***The choice of a 10:1 leverage limit is anti-competitive***

The arbitrary choice of 10:1 is anti-competitive along many dimensions.

1. It is anti-competitive vis a vis the banks that may offer 100:1 and higher. (Consider, for example, dbFX or CitiFX.)
2. It is anti-competitive vis a vis similar forex instruments that are traded over the Chicago Mercantile Exchange (CME) or the NASDAQ, which are also regulated by the CFTC. In some cases, these exchange-traded instruments can be traded with close to 50:1 or even 100:1 leverage. This level of leverage is permitted despite the fact that the OTC forex market is far more liquid and is active 24/5. Also, CME forex instruments, including futures and options, are primarily derivatives based on the OTC spot forex underlyings, which are not derivatives.
3. It is anti-competitive vis a vis FDMs that operate out of other conservatively-regulated jurisdictions offering higher leverage. This will assuredly cause many international clients currently trading with U.S.-based FDMs that now have funds deposited with U.S. banks, to move their accounts and funds to other jurisdictions (for example to SaxoBank in Denmark).

### ***The choice of a 10:1 leverage limit weakens the business environment in the U.S.***

There is no question that the CFTC-regulated FDMs will lose a significant amount of business should the 10:1 limit become rule. Firstly, it will cause trading volume to decrease significantly. Secondly, existing clients of CFTC-regulated firms will flee to foreign firms (often to foreign subsidiaries of the same firms). For example, over 75% of OANDA's clients are non-U.S. persons. Currently, they deposit margin capital that is held in U.S. banks, and are protected by the regulations of the CFTC/NFA. However, if the 10:1 limit proposal is implemented, these clients will likely move their accounts offshore.

As a result, the U.S.-based FDMs will transact far lower trading volumes, resulting in lower revenues, together with the following attendant consequences:

1. the IRS will generate less tax revenue;
2. the FDMs will downsize, resulting in significant job losses; and
3. the fees paid to the NFA will be greatly reduced, making it more difficult for the NFA to enforce the rules and investigate unscrupulous actors in our industry.

### *Historical Perspective*

A 10:1 leverage restriction for U.S.-based FDMs will definitely damage the industry in the U.S. and make it less competitive internationally, which in the end is disadvantageous for the trading public. I personally find this disappointing considering the huge positive transformation the forex industry has gone through over the last ten years. These changes were driven to a large extent by the offerings from the very forex dealers being negatively affected by the new rules.

This seems at odds with history as the United States has long been home to some of the world's most innovative companies. For their part, U.S. FDMs have played a key role in bringing innovation to the forex market. Consider:

- Ten years ago, forex trading was available only for corporates and well-to-to clients, where a credit line was necessary and the minimal trade size was \$1 million. The forex dealers opened the forex market to new market segments making it accessible to all. Today, there is much flexibility in ticket sizes. OANDA takes this to the extreme, where tickets can be for any odd lot as low as \$1. Other FDMs allow trading in sizes as low as \$10,000 or \$25,000.
- Ten years ago, the typical spread on EUR/USD was between 5 and 8 pips. Today it is below 1 pip. This is a massive reduction in the cost of trading, and today, forex is arguably the asset class that has the lowest cost of trading. (The reduction of cost to the trading public is similar to the dramatic reduction in price of computer hardware.)
- FDMs introduced margin-based trading to the forex market whereas previously it was all based on credit. This has been a key aspect in opening up the market to more participants.
- Reporting and account statistics are now updated in real time – something still not available with many of the forex banks.
- Forex trading has been brought to the Internet, making it accessible to all.
- The reliability and up-time of trading systems of the forex dealers is significantly better than those of the largest forex banks. This is primarily due to the fact that retail clients are far more demanding than institutional and professional clients.
- The quality of pricing has increased dramatically. Pricing from the major forex banks still include invalid spikes on a daily basis, something retail clients will not accept. Forex dealers have largely eliminated the spikes.
- There is now an unprecedented degree of transparency, with firms such as OANDA publishing their spreads, the order book, and their clients' positions.

I personally view this all as huge progress, but I am worried that a 10:1 leverage limit and its consequences will move this type of innovation offshore. There is clearly a demand for services offered by the forex dealers, as the number of live retail forex accounts has grown from zero, to hundreds of thousands over these last ten years.

**§5.5(e) requiring the disclosure of the number of accounts and the percentage of those that were profitable / unprofitable**

OANDA has always firmly believed in full transparency, and this rule is a step in the right direction. However, we have three concerns:

1. The metrics that must be published are not defined in sufficient detail, leaving too much open to interpretation, in turn making comparisons difficult.
2. The proposed metrics are misleading, considering that a significant portion of clients use forex trading for hedging purposes, where a trading loss is not a loss in the traditional sense.
3. This rule is also anti-competitive because it singles out forex dealers. Why does this rule not apply across all products?

**§5.16 prohibiting guarantees against loss**

Firms should be allowed to guarantee that clients do not lose more than their account balance. OANDA has provided this guarantee for quite some time, and is able to do this because of the technological advancements OANDA has pioneered. OANDA's systems check margin requirements for every account, every second, and can auto-liquidate positions if the account balance falls below margin requirements.

**§5.18(f)(3) restricting requoting**

OANDA understands and supports the objectives of this rule, but the rule does not take into account the spread volatility that occurs in the forex market. The rule, as stated, would be fine the vast majority of time, but during news announcements, spreads can increase dramatically, which might legitimately cause the new bid price to be higher and the new ask price to be lower. This could make it very difficult for FDMs to adhere to the rule without losing money on the transaction.

In closing, OANDA appreciates having been given the opportunity to comment on the Commission's new rules for forex trading. To be clear, OANDA is in favour of the intent and objectives of the proposed rules. We understand that there is much fraud in the industry which needs to be addressed. However, it is important to point out that the registered FDMs have not been implicated of fraud, and the proposed 10:1 limit does not address the fraud issue itself. We do believe that the rules proposed by the Commission – with the exception of the 10:1 leverage limit – will indeed help to reduce fraud. This is why OANDA supports the overall proposal, but respectfully asks that the Commission withdraw the limit of leverage to 10:1.

Sincerely,



Michael Stumm,  
Chief Executive Officer

**From:** Adam J Laszewski <laszewski.a@husky.neu.edu>  
**Sent:** Monday, March 22, 2010 4:13 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Opposed to proposed retail forex leverage restrictions

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Good afternoon,

I'm writing to express my displeasure with the recent proposal to restrict forex leverage. Forex traders understand the risk, and our brokers are required to put those risks forth when we sign up. Retail traders have no affect on the market, as we trade relatively small amounts relative to the various larger companies and central banks moving the market from day to day. Please do not move to legislate against our private freedom to do business as we see fit.

Thank you,

Adam Laszewski

**From:** sales@topgunsoftware.com  
**Sent:** Monday, March 22, 2010 4:19 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex IBs

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Hello,

I am writing to complain about possible new rulings requiring IBs to work with only 1 Forex Dealer Member.

We develop trading software that works on all markets, stocks, futures, Forex, oil, gold and hundreds more.

We currently give our software away free to traders at 3 Forex Brokers in exchange for commissions from their trading. Our traders love the fact that if they do not like ONE broker they are free to trade at others we represent.

It not only hurts our business by requiring IBs work with 1 FDM but it also removes the choice from our customers and worse if that FDM provides poor service the customer is out of luck, they have no choice.

As we operate now we get a few complaints about various brokers and customers leave one to go and trade at another. You are completely removing this trader benefit and this serves nobody. Before this new ruling we had planned on registering and then representing all the US FDM's and providing MORE choice to our customers.

Instead require IBs to become registered, take any necessary tests, put up capital if need be as futures IBs must. It doesn't make any sense that futures IBs can register and represent many futures brokers and yet Forex IBs can only represent one.

Chris Donnell  
LeverageFX.com

**From:** Klejna, Dennis (NY Int) <dklejna@mfglobal.com>  
**Sent:** Monday, March 22, 2010 4:24 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** FW: Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries, 75 Fed.Reg. 3282 (January 26, 2010)  
**Attach:** CFTC - Retail Foreign Currency Rules Comment letter.DOC

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Mr. David A. Stawick  
Secretary to the Commission  
Commodity Futures Trading Commission  
Three Lafayette Center  
1155 21st Street, N.W.  
Washington D.C. 20581  
secretary@cftc.gov

**Re:** Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries, 75 Fed.Reg. 3282 (January 26, 2010)

Dear Mr. Stawick:

Please see the attached comment letter of MF Global Inc. regarding the Commission's proposed regulatory scheme to implement the CFTC Reauthorization Act of 2008 with respect to Off Exchange Retail Foreign Exchange Transactions.

Kind regards,

Dennis A. Klejna  
Senior Vice President and  
Assistant General Counsel  
MF Global Inc.  
717 Fifth Avenue  
New York, New York 10022-8101

Tel. 212 935 3750  
Fax. 212 589 6246  
Email dklejna@mfglobal.com

DISCLAIMER: MF Global Inc ("MFGI") is a US registered futures commission merchant and a member of the NFA and is a US registered broker-dealer and a member of the CBOE, FINRA and SIPC. Except as otherwise indicated, references to MFGI also refer to all affiliates of MFGI (collectively "MFG"). MFG does not warrant the correctness of any information herein or the appropriateness of any transaction. The contents of this electronic communication and any attachments are for informational purposes only and under no circumstances should they be construed as an offer to sell or a solicitation to buy any futures contract, option, security, or derivative including foreign exchange. The information is intended solely for the personal and confidential use of the recipient of this electronic communication. If you are not the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited and you are requested to return this message to the sender immediately and delete all copies from your system. All electronic communication may be reviewed by authorized personnel and may be provided to regulatory authorities or others with a legal right to access such information. At various times, MFG or its affiliates may have positions in and effect transactions in securities or other financial instruments referred to herein. Opinions expressed herein are statements only of the date indicated and are not given or endorsed by MFG unless otherwise indicated by an authorized representative. Due to the electronic nature of electronic communication, there is a risk that the information contained in this message has been modified. Consequently, MFG cannot guaranty that messages or attachments are virus free, do not contain malicious code or are compatible with your electronic systems and MFG does not accept liability in respect of viruses, malicious code or any related problems that you may experience. Trading in futures, securities, options or other derivatives, and OTC products entails significant risks which must be understood prior to trading and may not be appropriate for all investors. Please contact your account representative for more information on these risks. Past performance of actual trades or strategies cited herein is not necessarily indicative of future performance. Privacy policy available upon request.

March 22, 2010

Mr. David A. Stawick  
Secretary  
Commodity Futures Trading Commission  
1155 21<sup>st</sup> Street NW  
Washington DC 20581

**Re: Regulation of Off-Exchange Retail Foreign Exchange Transactions  
and Intermediaries, 75 Fed.Reg. 3282 (January 26, 2010)**

Dear Mr. Stawick:

MF Global, Inc. (“MFG”)<sup>1</sup> is pleased to submit this letter in response to the Commodity Futures Trading Commission’s (“Commission’s”) request for comments on the Commission’s proposed rules governing the offer and sale of over the counter foreign exchange transactions to retail customers<sup>2</sup> through intermediaries subject to the Commission’s jurisdiction. The proposed rules are proposed to implement the provisions of section 2(c)(2)(B) and (C) of the Commodity Exchange Act (“Act”), which authorize the Commission to “make, promulgate, and enforce such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions of or to accomplish any of the purposes of this chapter in connection with agreements, contracts, or transactions” in foreign exchange as further described in this section of the Act.”

MFG strongly supports, as it always has, a comprehensive regulatory regime that will protect retail foreign exchange customers from fraud and other misconduct that may be perpetrated by intermediaries subject to the Commission’s jurisdiction, and we welcome most of the proposed regulations. Like many others, however, we believe that certain of the Commission’s proposals go too far and may well have the contrary effect, causing intermediaries to avoid Commission regulation entirely by conducting business through other

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<sup>1</sup> MFG is registered with the Commission as a futures commission merchant (“FCM”) and with the Securities and Exchange Commission as a broker-dealer. MFG is a wholly owned subsidiary of MF Global Holdings Ltd. which, through its various affiliates (collectively, “MF Global”), is a leading broker of exchange-listed futures and options with offices in Bermuda, New York, London, Chicago, Paris, Mumbai, Singapore, Sydney, Toronto, Tokyo, Hong Kong, Taipei and Dubai. We provide execution and clearing services for exchange-traded and over-the-counter derivative products as well as for non-derivative foreign exchange products and securities in the cash market. MF Global operates across a broad range of trading markets, including interest rates, equities, currencies, energy, metals, agricultural and other commodities. MFG and its affiliates conduct business in 12 countries on more than 70 exchanges, providing access to the world’s largest and fastest growing financial markets.

<sup>2</sup> The term “retail customers” means customers that do not fall within the definition of “eligible contract participants,” as set forth in section 1a(12) of the Commodity Exchange Act.

permitted counterparties - banks and other financial institutions - authorized under section 2(c)(2)(B) and (C) of the Act. These other permitted counterparties may be subject to sales practice and related rules that are less stringent than the Commission's proposed rules. Moreover, these provisions of the proposed rules place Commission registrants at such a severe competitive disadvantage that they may be effectively prohibited from engaging in this otherwise lawful activity.

### **The 10:1 Required Security Deposit**

The proposed rules require FCMs and retail foreign exchange dealers ("RFEDs"), as the latter group is defined in proposed rule 5.1(h), to collect security deposits from their retail customers in an amount at least equal to 10 percent of the notional value of the retail foreign exchange transaction. The Commission acknowledges that forex dealers currently offer far greater leverage – anywhere from 400:1 to 25:1. Indeed, NFA rules permit leverage of 100:1 for major currencies. The Commission's primary reason for this ten-fold increase is the threat of significant customer loss caused by even a small move against a customer's position. The Commission explicitly recognizes, however, that "[u]nder current market practices, customer positions are usually closed out once the losses in an account exceed the initial investment."<sup>3</sup> In fact, many retail FX dealers conduct business on platforms that automatically close out customer positions when the customer's positions are at a zero balance, a protection against unlimited loss that exchange traded futures contracts do not provide. The Commission's proposed rule, however, effectively ignores this key feature. As a result, on the same market move against any given position, a customer would lose 10 times the amount currently at risk without ever having to post additional margin. This can hardly be seen as enhancing customer protection. There may be a few platforms that do not provide such automatic (and timely) close-out but, to that extent, they would be no different from any designated contract market.

As further support, the Commission notes that there is no central counterparty for forex transactions and retail foreign exchange customers are thus subject to counterparty risk. The proposed above-market security deposit does nothing to ameliorate this risk. To the contrary, requiring that a customer deposit more of its funds with its counterparty only means that the customer will lose more of its funds in the event of the counterparty's bankruptcy. The Commission also argues that greater customer deposits will "provide some capital to cover customer funds held by a failing firm" and that this is justified by the absence of the bankruptcy preference accorded customer funds held in segregation for exchange-traded contracts. Even without the substantial benefit of the segregation of customer funds, we believe it is inappropriate effectively to require customers to prop-up a failing firm. Counterparty risk is better dealt with by requiring an FCM or retail foreign exchange dealer to maintain sufficient capital to meet its obligations. The \$20 million minimum capital

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<sup>3</sup> 75 Fed.Reg. 3282, 3291 (January 26, 2010).

requirement established by Congress, which NFA has adopted and the Commission has proposed, appears to be more than sufficient to address this concern.<sup>4</sup>

The Commission's proposed security deposit amount greatly exceeds the security deposits required in the OTC foreign currency markets generally, including among banks that deal with retail customers. By denying FCMs and retail foreign exchange dealers the ability to offer their customers a product that is financially competitive with that of other permitted counterparties, the proposed amount would effectively prohibit these registrants from engaging in conduct that Congress specifically authorized. Under the Commission's oversight, the NFA's retail forex rules have included security deposit requirements since 2003. The Commission acknowledges that NFA currently requires a minimum security deposit of one percent of the notional value of the transaction in the case of major currencies and four percent in the case of non-major currencies. RFEDs that have lawfully operated for years within these parameters may very well be put out of business as their customers quickly move to the banks that are offering retail foreign exchange. We respectfully submit that this cannot be what Congress intended when it twice explicitly permitted FCMs to engage in the off-exchange retail forex business and when it authorized the Commission to regulate it in 2008.<sup>5</sup> MFG believes that the business disruption and competitive disadvantage to be caused by the Commission's proposed 10:1 rule is unnecessary given the many other elements of the comprehensive regulatory regime the Commission is proposing. We agree with the Futures Industry Association that the Commission should retain the NFA's security deposit levels at least until the Commission has had the opportunity to observe the effectiveness of the many other proposed regulations under consideration that it will surely (and rightly) adopt.

### **Guaranteed Introducing Brokers**

Proposed rule 5.18(h) provides that any introducing broker that solicits or accepts orders for retail forex transactions must be guaranteed by an FCM or retail foreign exchange dealer. This means that the FCM or retail foreign exchange dealer must agree to be jointly and severally liable for all obligations of the introducing broker under the Act or the Commission's rules with respect to the solicitation and acceptance of retail forex transactions entered into after the effective date of the guarantee agreement.

In addition, under the Commission's rules, an introducing broker may enter into a guarantee agreement with only one FCM or retail foreign exchange dealer at any time. Further, proposed Rule 5.24 provides that: "Insofar as it is consistent with the requirements of this part, all other provisions of [the Commission's rules] shall apply to such person as though

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<sup>4</sup> We understand that the increase in the minimum net capital requirement for FCMs and retail foreign exchange dealers to \$20 million has caused less well-capitalized dealers to withdraw from registration with the Commission and as members of NFA. This has been accomplished without affecting the ability of better capitalized FCMs to continue to provide appropriate foreign exchange services to their customers.

<sup>5</sup> Title XIII, Farm, Conservation and Energy Act of 2008.

such provisions were expressly set forth in this part.” Therefore, it would appear that Commission Rule 1.57, which requires an introducing broker to open and carry all accounts that it introduces with its guarantor FCM, would apply. Consequently, each introducing broker would be required to introduce accounts only to its guarantor FCM or RFED.

Each introducing broker, therefore, would effectively become a branch office of its guarantor. Among other responsibilities, under NFA rules, the guarantor FCM or retail foreign exchange dealer would have to conduct an annual compliance audit of the introducing broker, including any branch offices that the introducing broker might have.

We believe the proposed rule imposes an undue burden on introducing brokers that, even if well-capitalized, would be able to introduce its clients to only one FCM or foreign exchange dealer. Many of these introducing brokers may also introduce clients to different FCMs for trading on organized futures exchanges, and the proposed rule might well result in limiting their ability to conduct such business activities. Similarly, the proposed rule would place an undue burden on FCMs and RFEDs, which would be forced to guarantee all introducing brokers or forgo the use of these registrants entirely.

Many FCMs and retail foreign exchange dealers already require introducing brokers to be registered with the Commission and become members of NFA as a sound business practice although they are not currently required to do so. We are not aware of any evidence that these registrants are engaging in fraud or other misconduct to a degree that justifies a requirement that they be guaranteed.

### **Risk Disclosure**

Section 5.5 of the proposed rules sets out a detailed risk disclosure statement that must be provided by each FCM, retail forex dealer and introducing broker before opening an account for a retail customer. As a general matter, we respectfully object to the tone of the disclosure statement, which lacks the objectivity of the futures risk disclosure statement.

More specifically, we object to the proposed disclosure requirements set out in subparagraph (e), which provides that, immediately following the risk disclosure statement, the statement include, for each of the most recent four quarters during which the counterparty maintained retail foreign exchange accounts:

- (i) The total number of non discretionary retail foreign exchange accounts maintained by the retail foreign exchange dealer or FCM;
- (ii) The percentage of such accounts that was profitable; and
- (iii) The percentage of such accounts that was not profitable.

The Commission’s Part 4 rules properly require commodity trading advisors and commodity pool operators that exercise discretionary authority over accounts to report the results of their

trading activities to their customers. If FCMs and retail foreign exchange dealers do not exercise discretionary trading authority over their customers' foreign exchange accounts, the percentage of customer accounts that are profitable or unprofitable would appear to be irrelevant to a market participant willing to make his or her own trading decisions. The Commission should not single out off-exchange foreign exchange transactions in this way. It suggests that the Commission truly intends to discourage, if not dissuade, retail investors or traders from participating in this market - even within the sweeping regulatory framework the Commission is now proposing and which MFG largely supports.

### **Conclusion**

The off-exchange foreign exchange experience has been a painful one. For years, firms and individuals sought to position their activities beyond the reach of even the Commission's anti-fraud authority. Courts grappled with the sometimes difficult question of the Commission's jurisdiction and occasionally disagreed. Over time, Congress carefully (even painstakingly) identified the types of regulated entities that may offer off-exchange retail forex contracts and, in 2008, finally granted the Commission badly needed regulatory authority. MF Global applauded this development and we are now very pleased to support most of the regulations the Commission has proposed. We respectfully submit, however, that certain of the Commission's proposals - particularly the required security deposit - are as yet unnecessary, and will make it virtually impossible for FCMs to compete with banks and other financial institutions. Indeed, with a stroke of the regulatory pen, it could ban businesses that have operated for years within the regulatory requirements of NFA as overseen by the Commission.

MF Global Inc. is grateful for this opportunity to comment on the Commission's proposed regulations. If you have any comments or questions you may contact me at 212-589-6235 or [lferber@mfglobal.com](mailto:lferber@mfglobal.com) or Dennis Klejna, Assistant General Counsel, at 212-935-3750 or [dklejna@mfglobal.com](mailto:dklejna@mfglobal.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Laurie R. Ferber". The signature is fluid and cursive, with the first name "Laurie" being more prominent.

Laurie R. Ferber  
General Counsel

**From:** Scott Ferber <sferber@cmsfx.com>  
**Sent:** Monday, March 22, 2010 4:37 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex - RIN 3038-AC61  
**Attach:** \_10-03-22\_ Letter to CFTC on FX Regs \_final\_.pdf

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Dear Mr. Stawick:

Attached please find the comment letter for Capital Market Services, LLC which comments on the Regulation of Retail Forex, RIN 3038-AC61.

Best Regards,

Scott

--

Scott Ferber  
Staff Attorney

Capital Market Services LLC  
Empire State Building  
350 Fifth Avenue, Suite 6400  
New York, New York 10118  
Phone: (212) 563-2100 ext. 4449  
Fax: (212) 563-4994  
Email: sferber@cmsfx.com

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March 22, 2010

**VIA E-Mail**

Mr. David A. Stawick  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington, DC 20581

**Re:    Comments on Proposed Regulation of Retail Foreign  
Exchange Transactions and Intermediaries, RIN 3038-AC 61**

Dear Mr. Stawick:

Capital Market Services LLC (“CMS”) appreciates the opportunity to respond to the Commodity Futures Trading Commission’s (the “CFTC” or “Commission”) request for comments on the proposed rules entitled “Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries.”

CMS is a CFTC-registered Futures Commission Merchant (“FCM”) and a National Futures Association (“NFA”) regulated Forex Dealer Member (“FDM”). CMS is also a member of the Foreign Exchange Dealers Coalition (“FXDC”), an organization composed of nine FDMs.

CMS supports the Commission’s efforts to provide greater oversight to the forex industry. CMS generally believes that the proposed regulations are beneficial to the forex industry and constructively implement the purpose of the 2008 Farm Bill. However, CMS believes certain changes should be made before the final rules are issued. Therefore, we are hereby submitting comments regarding the following four proposals:

- (a) Proposed Regulation 5.9 (changing the margin requirement to ten percent) – we urge the CFTC to leave the margin levels at one percent in accordance with just recently adopted NFA regulations;
- (b) Proposed Regulation 5.18(h) (requiring all introducing brokers to be guaranteed by an FCM or RFED) – we urge the CFTF to allow the option for introducing brokers to remain independent;

- (c) Proposed Rule 5.18(j) (requiring all FCMs and RFEDs to designate a Chief Compliance Officer) – we believe imposing personal liability on Chief Compliance Officer is unnecessary in view of current stringent regulatory regime for the forex industry; and
- (d) Proposed Regulations 5.5(e) and 5.18(i) (requiring disclosures regarding the number of active trading accounts and the percent of such accounts that were profitable in the four most recent quarters) – we believe requiring such disclosures will not contribute to enhanced transparency and customer protection and would create potential for dissemination of misleading information and data manipulation by industry participants.

For the reasons outlined below, CMS urges the Commission to revise the proposed regulations in order to ensure adequate investor protections as well as maintain competitiveness and sustainability of the forex industry.

#### **A. Proposed Regulation 5.9**

CMS strongly believes that current 100:1 NFA leverage requirement for major pairs and 25:1 leverage requirement for minor pairs are fully adequate for the US forex industry in view of the existing regulatory regime and internal procedures in place at member FDMs. Such leverage level ensures oversight over FDMs' insolvency risks and provides proper customer protections while maintaining competitiveness with non-US forex companies and operational efficiency.

Forex brokers worldwide are currently offering their customers a variety of leverage options (including leverage up to 400:1 in regulated jurisdictions such as the UK and even higher leverage in off-shore unregulated countries), which allows these brokers to stay competitive in the global economy. Higher leverage options also allow small investors to have access to and meaningfully participate in the forex market. Pursuant to the NFA regulations adopted in November 2009, US FDMs have already reduced their leverage across the industry to 100:1 despite the anti-competitive impact of such a comparatively lenient reduction. Recent NFA regulations following the enactment of the Farm Bill have also substantially increased the capital requirement for US FDMs to prevent any risk of insolvency and provide greater customer protections. In view of these stringent checks and balances already applicable to the forex industry, requiring FDMs to lower leverage to 10:1 will unduly burden the forex industry in the US to anti-competitive levels by forcing US FDMs to move their operations abroad. The proposed 10:1 leverage levels will also encourage US and foreign retail customers to invest their funds in unregulated jurisdictions outside of the CFTC's reach, thereby creating the exact opportunities for fraud and market abuse that the CFTC is seeking to prevent.

Further, the highly automated nature of the Forex market and operational practices utilized by the FDMs provide adequate customer protections without the necessity to further decrease leverage. Particularly, US FDMs provide 24-hour risk-management and market making functions and, unlike FCMs, have full control over market making, are not subject to time gaps between sessions and have lower risk of deficits, thus warranting much lower margins than even

existing 1% exchange margins for futures. Hence, imposition of margin requirements 10 times higher than exchange margins on FDMs is neither justified by industry practices, nor supported by any evidence that such levels are necessary to protect FDMs and their customers.

Therefore, CMS strongly urges the CFTC to leave the existing NFA-mandated 1% margin requirement in place – it would preserve a US industry bringing over \$1 billion in revenue and would allow to strike a balance between providing adequate customer safeguards and remaining competitive with other forex firms around the globe.

## **B. Proposed Regulation 5.18(h)**

Although CMS supports implementing CFTC registration and monitoring criteria for Introducing Brokers (“IBs”), we believe that the new requirement for IBs to register as guaranteed IBs with the Forex dealer to which they introduce accounts is misguided. Effectively, such new regulation will impose exclusivity in IB relationships and will provide a disservice to retail customers by restricting the IBs from offering their clients a variety of options particularly suitable to them.

CMS understands the CFTC’s concern regarding fraudulent and deceptive sales practices by IBs and supports all additional regulations which would provide better oversight of IBs. Curbing the fraudulent and deceptive sales practices which are conducted by a small minority of unethical IBs is an important regulatory objective. However, this proposed rule is misguided and sets exclusivity standards for the forex industry that do not exist in the futures and securities industries, where IBs have the option of being either independent or guaranteed.

Requiring the guaranteeing of all IBs would force IBs to conduct business for only one forex dealer. Hence, the IBs will not be able to offer customers the benefits that different forex dealers may offer, including different liquidity provider banks, different platforms and different products. Therefore, the proposed regulation drastically limits the ability of IBs to not only offer suitable options to their clients but also for their clients to make competitive economic decisions regarding their relationship with forex dealers. CMS believes that IBs should be allowed the same flexibility that is available in the futures market since there is no rational justification for differentiating between the two marketplaces and placing the forex market at a disadvantage.

CMS believes that a more effective solution is to require all IBs and any third party that performs services similar to an IB (such as a third party provider of trading algorithms that recommends its customers to use certain forex dealers) to register with the CFTC. Registration would subject these third parties to regulatory audits and oversight by the CFTC. Third parties who attract clients to the industry will then become accountable to a regulator for their solicitation and sales practices. At the same time, individual IBs would maintain control of the decision of whether to affiliate with a forex dealer or to maintain their independence.

### **C. Proposed Regulation 5.18(i)**

This proposed regulation would require that all forex dealers designate a Chief Compliance Officer (“CCO”). The CCO would be required to certify each year that the forex dealer had policies and procedures in place reasonably designed to achieve compliance with the Commodity Exchange Act and the Commission’s regulations.

CMS agrees with the CFTC that compliance should be taken seriously and in accordance with the highest professional standards. However, holding the CCO accountable for a firm’s oversight is misguided as the CCO is generally not a decision-maker for a firm. In effect, the CCO could potentially be held personally responsible for conduct that is outside of his/her control.

This regulation creates an unnecessary strain on forex dealers and will discourage individuals from taking on the role of CCO due to high risk of personal liability. The CCO is not held personally liable in other related industries and we do not believe the forex industry should be held to a different standard. Effective compliance is of the utmost importance in the financial services industry but personal liability is not an effective solution. CMS believes that promulgating additional compliance and risk management procedures would be a less drastic, yet equally effective method of implementing the CFTC’s compliance objectives.

### **D. Proposed Regulation 5.5(e) and 5.18(i)**

Proposed Regulation 5.5(e) would require that FCMs and RFEDs disclose the number of active accounts traded and the percent of such accounts that are profitable. Further, proposed Regulation 5.18(i) would require forex dealers to keep records of unprofitable accounts in order to make the disclosure under Regulation 5.5(e). CMS believes that the disclosure of the number of active accounts and the percent of such accounts that are profitable is not only unnecessary but, in fact, counterproductive for customer protection since this data can be easily manipulated and gives limited insight into a firm’s economic strength or the risks present in forex trading.

CMS supports educating clients and providing proper disclosures. However, CMS believes that these proposed Regulations are misguided. Requiring the disclosure of the percent of profitable accounts will have an unintended consequence of increasing confusion and unbalanced customer perceptions of the market. For instance, the number of profitable traders could differ significantly depending on when the report was generated. Investors could also be misled into thinking that they will profit if there is a large number of profitable trades during a given time period or for a specific forex dealer. In reality, however, the success of one trader has absolutely no bearing on the success of another.

Further, since the proposed regulation does not specify the method for calculating profitable accounts or the time frame for determining profitability, each FCMs and RFEDs could skew the data in order to make it appear that more accounts are profitable. Without defining a uniform method of analysis, the profitability reports have a high potential to be misleading and detrimental to retail customers.

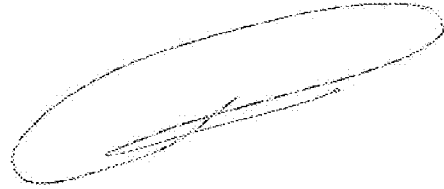
CMS believes that current regulatory requirements regarding risk disclosures sufficiently allow retail customers to evaluate the risks inherent in forex trading. Such risk disclosures are much more pertinent to trading decisions than arbitrary information about other traders' successes or failures.

### **Conclusion**

CMS strongly believes that the Commission's proposed rules should be revised as outlined above. CMS's suggested changes will help strengthen the forex market while protecting retail clients.

We look forward to working with the Commission in order to better protect investors.

Sincerely,

A handwritten signature in black ink, appearing to read 'Felix Shipkevich', enclosed within a large, hand-drawn oval.

Felix Shipkevich  
General Counsel

**From:** Joanne Ryser <jkryser@yahoo.com>  
**Sent:** Monday, March 22, 2010 4:38 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

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Regarding RIN 3038-AC61

I am strongly opposed to the proposed change in regulations which will limit the leverage in our accounts to 10:1. This will effectively put the small, individual, middle class investor and trader out of business. Right now with my \$20K account and a 50:1 leverage I can make \$100 - 200 per day. If these rules go into effect, I would then have to have a \$100K account to earn the same day's profit, which I don't have and which would put me and alot of others out of business. We finally have something that we can invest in, with *less* risk than the stock market, and now you will make this unavailable to the average american investor, leaving the trading and the profits only accessible to the wealthy.

**You are going to make Forex trading only accessible to the wealthy and the large institutional investors. Just another curtailing of our freedoms and my constitutional right to "pursue happiness".**

I think I am smart enough to know my risks and to make my own decision as to what kind of risk I want to take. I do NOT need you and the govt trying to "protect me". which actually is just another restriction on my ***right and privilege*** to *invest and profit..*

Do you want us ALL to be on welfare???? You are regulating us to death..... Please DO NOT pass this erroneous regulation.

Sincerely,

Joanne Ryser  
Peck, IDAHO

**From:** H.Taji Sharif <playingtheparts@go.com>  
**Sent:** Monday, March 22, 2010 4:40 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

Hello, my name is Hasan T. Sharif. I'am a forex trader with alpari. I think that you should keep things the way they are. In this economical time were currently in, this would devastate the average trader. The beginner and average trader would not be able to develop and strengthen their own trading style. Myself and many other beginners, and average traders would not be able to gage our own risk, based on this potential change. I hope you keep the 100:1 leverage because the average investor won't have a chance.

Sincerely,  
Hasan T. Sharif

**From:** Tammy Botsford <tbotsford@futuresindustry.org>  
**Sent:** Monday, March 22, 2010 4:42 PM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** Gensler, Gary <GGensler@CFTC.gov>; Dunn, Michael <mdunn@cftc.gov>; Sommers, Jill <JSommers@CFTC.gov>; Chilton, Bart <BChilton@CFTC.gov>; O'Malia, Scott <SO'Malia@CFTC.gov>; Radhakrishnan, Ananda <ARadhakrishnan@CFTC.gov>; Smith, Thomas J. <tsmith@CFTC.gov>; Bauer, Jennifer <JBauer@CFTC.gov>; Penner, William <WPenner@CFTC.gov>; Cummings, Christopher W. <ccummings@CFTC.gov>; Sanchez, Peter <PSanchez@CFTC.gov>; Shilts, Richard A. <rshilts@CFTC.gov>; Berkovitz, Dan M <DBerkovitz@CFTC.gov>  
**Subject:** Regulation of Retail Forex - FIA Comment Letter  
**Attach:** FIA FINAL comment CFTC Retail Forex Transactions & Intermediaries.pdf

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Attached please find the Futures Industry Association's comment letter regarding proposed regulation of off-exchange retail foreign exchange transactions and intermediaries.

Please do not hesitate to contact me with any questions.

Tammy

Tammy Botsford  
Vice President and  
Assistant General Counsel  
Futures Industry Association  
2001 Pennsylvania Ave. NW  
Suite 600  
Washington, DC 20006  
[tbotsford@futuresindustry.org](mailto:tbotsford@futuresindustry.org)  
Tel: 202-772-3036  
Fax: 202-772-3091



**Futures Industry Association**

2001 Pennsylvania Ave. NW  
Suite 600  
Washington, DC 20006-1823

202.466.5460  
202.296.3184 fax  
[www.futuresindustry.org](http://www.futuresindustry.org)

March 22, 2010

David Stawick, Secretary  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20581

**Re: Proposed Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries, 75 Fed. Reg. 3282 (Jan. 20, 2010)**

Dear Mr. Stawick:

The Futures Industry Association<sup>1</sup> submits these comments on the Commodity Futures Trading Commission's Notice of Public Rulemaking entitled "Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries." FIA supports almost all aspects of the Commission's proposal, and strongly supports the overarching goal of the rulemaking: to protect customers and prevent fraud in the retail FX business.

Congress has made protecting customers one of the cornerstone purposes of the Commodity Exchange Act (CEA § 3(b)). FIA fully supports that statutory mandate and has itself proposed changes to the CEA that Congress has enacted to strengthen customer protection and fraud prevention in the retail FX business. We applaud the Commission for thoroughly implementing the new rulemaking powers granted in the Commodity Futures Trading Commission Reauthorization Act of 2008.

FIA does oppose three aspects of the Commission's proposals and offers one conceptual comment for Commission consideration. While our letter will focus on those areas of disagreement, we do not want that focus to be misread as a negative appraisal of the Commission's entire customer protection package. Nothing could be further from the truth. FIA believes that the overall strength of the Commission's proposed reforms, when implemented

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<sup>1</sup> For the record, FIA is a principal spokesman for the commodity futures and options industry. FIA's regular membership is comprised of approximately 30 of the largest futures commission merchants ("FCMs") in the United States. Among its associate members are representatives from virtually all other segments of the futures industry, both national and international. Reflecting the scope and diversity of its membership, FIA estimates that its members effect more than eighty percent of all customer transactions executed on United States designated contract markets.

fully and enforced vigorously, should make it unnecessary to adopt the elements of the Commission's proposal which we question.

Where we disagree with the Commission's proposal, we believe customer protection actually would be better served by a different approach. FIA urges the Commission to reconsider its ten percent security deposit requirement because National Futures Association's current standards, when coupled with the rest of the Commission's new reforms, will better protect customer interests. FIA would ask the Commission to wait until its reforms have taken full effect before reconsidering whether any changes to NFA's security deposit levels are warranted. FIA also requests that the Commission modify one element of its mandated disclosures and clarify its proposal that all the introducing brokers (IBs) must be guaranteed by retail foreign exchange dealers (RFEDs) or futures commission merchants (FCMs).

#### **I. THE TEN PERCENT SECURITY DEPOSIT SHOULD NOT BE ADOPTED**

The Commission proposes a new security deposit requirement for retail FX trades. Proposed Regulation 5.9 would require each RFED or FCM that engages in retail FX transactions to collect from customers a security deposit equal to ten percent of the notional value of the retail FX transaction.<sup>2</sup> See Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries, 75 Fed. Reg. 3282, 3290-91 (Jan. 20, 2010). This rule effectively imposes a leverage limit of 10 to 1 on these transactions; for \$100 of notional FX exposure, a customer must post \$10.

This security deposit level would expose customers to greater potential losses than current law. National Futures Association rules, which the CFTC has reviewed and approved, allow for 100-1 leverage for major currencies and 25-1 leverage for other currencies.<sup>3</sup> NFA's original security deposit rule went into effect on December 1, 2003. It required customers to post a security deposit equal to two percent of the notional value of transactions in "major currencies" and four percent of the notional value of transactions in all other currencies.<sup>4</sup> In 2004, NFA amended this rule so that customers could post a security deposit of one percent of

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<sup>2</sup> With respect to short options, Proposed Regulation 5.9 requires that the customer post a security deposit of ten percent of the notional value of short retail forex options in addition to the premium received. For long options, the customer must post the full premium received.

<sup>3</sup> With respect to options transactions, the NFA's leverage rule is identical to Proposed Regulation 5.9.

<sup>4</sup> The British pound, the Swiss franc, the Canadian dollar, the Japanese yen, the Euro, the Australian dollar, the New Zealand dollar, the Swedish krona, the Norwegian krone, and the Danish krone were specified as "major currencies."

the notional value for transactions in “major currencies.”<sup>5</sup> Originally, NFA instituted a security deposit requirement as a way to ensure that FX dealers did not offer customers so much leverage that the customer would have little chance to profit. NFA also wanted to ensure that its security deposit requirement would be in line with that allowed for retail FX customers of banks and other dealers in the international currency market. *See* National Futures Association, Letter to Jean A. Webb, Commodity Futures Trading Commission Re: National Futures Association: Proposed Amendments to NFA Bylaws 306 and 1301, NFA Compliance Rule 2-36 and Section 1 of NFA’s Code of Arbitration, and Proposed Adoption of Sections 11 and 12 of NFA Financial Requirements and an Interpretive Notice entitled, “Forex Transactions with Forex Dealer Members” (Jun. 2, 2003).

FIA believes current NFA’s security deposit requirements provide more customer protection than the Commission’s proposal. Setting a security deposit level requires finding a balance point. On the one hand, the security deposit level should not be so low as to be rigged or inherently fraudulent -- whereby “super” leverage and normal price volatility will combine to make it virtually impossible for a customer to profit from trading. (Before NFA stepped in years ago, some retail FX firms did just that.) On the other hand, once a security deposit is set at a level that allows the customer a fair opportunity to profit, the level should not be set too high because it actually could lead to greater customer losses.

In our view, NFA’s security deposit levels set an appropriate balance and should be retained, at least until the Commission has had an opportunity to observe how those levels will work within the new and extensive customer protection regime the Commission is proposing. The Commission’s proposal to increase the NFA levels by either 400% or 1000% should be held in abeyance. As we will discuss, the Commission’s levels may actually inadvertently harm customer interests. Moreover, at least on this record, the Commission’s proposed security deposit level may not pass muster substantively or procedurally under the Administrative Procedure Act.

**A. Proposed Regulation 5.9 could harm the interests of customers.**

The CFTC’s reason for proposing to replace the one or four percent NFA security deposit level with a ten percent security deposit is to protect the retail FX customers of RFEDs and FCMs. *See* 75 Fed. Reg. 3291. We share the Commission’s concern for retail FX customers. In

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<sup>5</sup> The 2004 Amendment also exempted FX dealers who maintained adjusted net capital of at least twice the required amount from collecting security deposits. In 2008, the NFA changed the rule so that FX dealers who maintained adjusted net capital of at least 150% of the required amount could qualify for the exemption. In 2009, the NFA removed this exemption entirely, so all FX dealers subject to NFA rules had to collect security deposits.

our view, however, NFA's approach places less customer funds at risk and offers better customer protection.

The Commission argues that retail FX involves inherent risks to customers, and lists those risks -- the risk of a market loss,<sup>6</sup> the risk the stop-loss protections of the RFED or FCM will be breached, the risk of the bankruptcy of the RFED or FCM will cause it to be unable to pay customers that earn trading profits, and the risk customer's funds will be commingled with those of the RFED or FCM. For each risk, the CFTC claims that requiring the customer to put up more money to open a retail FX position offers better customer protection.

FIA disagrees. We believe putting less, not more, customer money at risk would protect customers. When comparing the CFTC's proposed required security deposit level to that the NFA now requires, the NFA security deposit levels better protect customers by putting less customer money at risk. NFA requires customers to put up \$1 or \$2.5 for every \$100 of exposure, while the CFTC would require \$10 for every \$100. FIA believes a reasonable customer would prefer to have \$1 or \$2.50 at risk, than \$10, for the same transaction. In that sense, the NFA security deposit rules would offer more protection for the interests of customers.

The Commission concedes that "usually" retail FX customer accounts are "closed out once the losses in an account exceed the initial investment." 75 Fed. Reg. at 3291. That is one element that distinguishes the retail FX business model from the exchange-traded model. Again, if the usual "close out" practice is followed, the CFTC's proposal would expose \$10 to loss, while NFA would expose \$1 or \$2.50. NFA's approach involves less risk for the customer.

The Commission argues that, if, for any reason, "the positions are not closed out at a zero balance, the customer could be liable for additional losses." *See* 75 Fed. Reg. at 3291. The CFTC is right that such additional losses are possible. But customers' interests are not helped by increasing the amount of the security deposit.

Consider this example. Assume a sharp market increase or decrease in price. In that situation, it is possible any retail FX customer could suffer serious losses (or reap corresponding profits) and those losses might eclipse the deficit balance safeguards the RFED or FCM has in place. In that case, the CFTC's larger (\$10/100) security deposit would expose more customer funds to loss than the NFA's lower amounts (\$1 or \$2.5/100). In other words, if a firm is going to put the brakes on a customer's losses just before or after the deficit balance level is reached, customers would be better served if the brakes are applied sooner, not later. Then even if the

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<sup>6</sup> The Commission argues that "[t]he extreme volatility of the foreign exchange currency markets exposes retail FX customers to substantial risk." *See* 75 Fed. Reg. at 3291. The CFTC provides no data or study to show that FX markets are more volatile than other markets

brakes don't stop the losses immediately, they will have a better chance of stopping the losses sooner, resulting in less loss for the customer.

Of course, customers always could put up more money (or have less leverage) for their security deposit if they so desired. No RFED or FCM is going to turn down a customer that wants to trade on less leverage. But if customers have been trading on 100-1 or 25-1 leverage under the NFA rules and want to continue to do so, those customers will simply trade with banks or overseas firms where NFA-level, or much higher leverage, is available. Alternatively, customers could finance the required security deposit, which would not, as a matter of economics, change the leverage ratio at all.

The CFTC also argues that it wants higher customer security deposits "to provide some capital to cushion funds held by a failing firm," implying that putting more customer funds at risk is desirable because those monies can be used to cushion a failing RFED or FCM, which is accepting bi-lateral credit risk in these uncleared transactions. This rationale turns customer protection on its head. It is hardly customer protection to make "extra" customer funds available to help bail-out any RFEDs or FCMs that fail. In any event, Congress has already addressed the issue of minimum financial rules for RFEDs and FCMs with the statutory \$20 million net capital standard. There is no evidence that this statutory minimum is inadequate.

Regulation 5.9 should be re-assessed. The CFTC should wait until its new anti-fraud and customer protection provisions take effect before considering whether to implement stricter security deposit requirements. If, after a trial period, the Commission still believes security deposit improvements are necessary, it could adopt them or ask NFA to do so. For now, however, this is a step the CFTC does not need to, and should not, take.

**B. The CFTC provides no evidence to support its choice of a ten percent security deposit.**

The Commission's methodology in choosing a ten percent security deposit requirement is, at best, unclear. The CFTC's proposal provided no data to justify its choice of a ten percent security deposit requirement. An agency's authority to promulgate rules is based, in part, on the premise that agencies have expertise in a given area. This expertise is the "lifeblood of the administrative process," but the CFTC should explain its reasoning so that the interested public can understand how the agency is exercising its expertise. See *Burlington Truck Lines v. United States* 371 U.S. 156, 168 (1963) (finding that the Interstate Commerce Commission improperly granted an "additional certificate of service" to prevent a union boycott of non-unionized stockholder carriers from disrupting shipping services in several regions).

The CFTC's rationale for requiring a ten percent security deposit, as stated in the Federal Register, is simply that ten percent falls between FINRA's proposed twenty-five percent

requirement and NFA's existing four percent (or one percent) requirement. *See* 75 Fed. Reg. at 3291. This rationale ignores the basic contradiction of FINRA's proposed level -- a proposal to protect customers will actually put more customer funds at risk -- which should disqualify it as an appropriate benchmark. *See* Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change to Adopt FINRA Rule 2380 To Limit the Leverage Ratio Offered by Broker-Dealers for Certain FX Transactions, 74 Fed. Reg. 32022, 32023 (Jul. 6, 2009).<sup>7</sup>

FINRA states that it wants to increase the amount of a customer's security deposit in order to limit the customer's losses. FINRA must have found the NFA standards to be inadequate. FINRA was wrong, as this example shows. First, assume an investor posts a \$1 deposit on a notional FX position of \$100. The trading increment (tick size) is 12.5 cents. If the market moves 5 ticks against the investor's position, 62.5 cents of the \$1 deposit is depleted, which would be the same amount of loss if the investor posted a \$25 security deposit, as FINRA would require. But, if the market moves 30 ticks against the investor's position, for a loss of \$3.75, the investor would likely not lose more than \$1 under the NFA rule because his position would have been closed out by the RFED or FCM as it approached deficit status (as the CFTC acknowledges). If the same investor posted a \$25 security deposit under FINRA's rule, however, he would have lost the full \$3.75. FINRA's proposal will therefore allow for greater losses for customers who enter into retail FX positions than NFA's rules. The CFTC should not rely on FINRA's proposal as a credible benchmark.

In contrast to its misplaced reliance on FINRA's rule, the CFTC does not explain its past role in the adoption of NFA's standards. Put simply, for almost seven years, the CFTC has been responsible for, and has even approved, the NFA security deposit requirements. Under Section 17(j) of the CEA, NFA submits its rules to the CFTC and may request CFTC approval (or the CFTC may review and approve those rules on its own motion). The record shows that on certain occasions the CFTC affirmatively approved NFA's security deposit rules. *See* National Futures Association, Notice 1-03-14, "New Forex Rules Will Become Effective December 1, 2003" (Oct. 2, 2003) ("The Commodity Futures Trading Commission (CFTC) has approved amendments to NFA Bylaws, Compliance Rules, Financial Requirements, and Code of Arbitration, and a new Interpretive Notice regarding off-exchange foreign currency futures and options transactions with retail customers."). By law, the CFTC only approves those NFA rules that the CFTC determines to be consistent with the customer protection and other provisions of Section 17 and not otherwise in violation of the Act.

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<sup>7</sup> This notice proposes a leverage limit of 1.5 to 1. FINRA amended this notice on November 12, 2009 to propose a 4 to 1 leverage limit, but did not change the rationale for having a leverage limit in the first place.

Having accepted NFA's leverage rules for many years, the CFTC now claims those rules are inadequate to protect customers. FIA respects the Commission's right to change its mind, but believes that the public is entitled to an explanation for this about-face. The Commission, however, has offered none. FIA believes NFA's security deposit levels actually better protect customers than the Commission's proposed levels and should be retained. We would be interested to learn why the Commission disagrees with that conclusion.

**C. The Commission has not taken the least anticompetitive means of achieving the Act's objectives in violation of Section 15(b).**

Section 15(b) of the Commodity Exchange Act requires the CFTC, when it adopts any rule, to "endeavor to take the least anti-competitive means of achieving the objectives" of the Act. The CFTC has not acknowledged that its proposal would make it prohibitively expensive and risky for customers to enter into retail FX transactions with RFEDs and FCMs, leaving banks with an effective monopoly on the retail FX business in the U.S. As shown above, the CFTC has available to it less anti-competitive, and more effective, means of protecting retail FX customers. If the CFTC adopts its proposed rule, it would contravene CEA § 15(b).

Section 15(b) of the Commodity Exchange Act requires the Commission to do two things when promulgating regulations. The Commission must: i) "take into consideration the public interest to be protected by the antitrust laws;" and ii) "endeavor to take the least anticompetitive means" to achieve the objectives of the CEA. See 7 U.S.C. § 19(b). The Commission has not explained either factor with respect to Proposed Regulation 5.9.<sup>8</sup> See 75 Fed. Reg. at 3295-3296. Therefore the public has no way of knowing whether the agency has discharged its legal duty. Without such an explanation, the CFTC denies the public meaningful opportunity to comment on the proposal.

**II. THE DISCLOSURE REQUIREMENT IS UNPRECEDENTED AND COULD MISLEAD CUSTOMERS**

The Commission proposes to require RFEDs, FCMs and IBs to "provide retail forex customers with a risk disclosure statement similar to that currently required by Regulation 1.55, but tailored to address the risks, conflicts of interest and unique characteristics of retail forex trading." See 75 Fed. Reg. at 3289. FIA supports the effective and accurate disclosure of risk to customers, but we question one element of the proposed retail FX disclosure. The proposal would require RFEDs and FCMs to disclose the number of non-discretionary retail FX accounts maintained by an RFED or FCM, and the percentage of such accounts that were profitable for each of the four most recent quarters. The CFTC grounds this proposal in its belief that the "vast

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<sup>8</sup> Indeed, the Commission does not address either factor with respect to any proposed regulation in the proposing release.

majority of retail customers who enter these transactions do so solely for speculative purposes, and that relatively few of these participants trade profitably.” *See* 75 Fed. Reg. at 3289. Instead of presenting supporting data, however, the Commission states that even if it is mistaken, this disclosure will be helpful to customers. As proposed, we respectfully disagree because the proposal is unprecedented and could mislead customers in certain circumstances.

FIA agrees with the Commission that RFEDs and FCMs should provide potential customers with sufficient material information to allow them to make informed decisions about whether to enter the retail FX market. FIA also commends the Commission’s effort to tailor disclosure obligations to the specific risks of the retail FX market. But the novel requirement mandating disclosure of the number of accounts that were profitable for each of the past four quarters lacks balance and will likely misinform customers.

Legitimate questions could be raised about the value of providing any past account performance data for retail FX. The CFTC’s rules for disclosure of performance by trading professionals always contain the mandated warning that “past performance is not necessarily indicative of future results.” The disclosure is required to caution prospective investors against over-reliance on past performance information because markets are dynamic and unlikely to be replicated in the future. This is especially true for FX markets because retail customer performance turns on each customer’s trading ability. Customers, as a whole, have a broad range of experience and trading acumen. FIA therefore believes that the data on past profitability may well be particularly unreliable and unhelpful as predictors of future prospects.

In addition, some customers may well enter into retail FX contracts to hedge FX exposures; as a hedge, an unprofitable retail FX trade may well indicate a successful strategy. Disclosing the loss out of context could be misleading.

Furthermore, requiring disclosure of the number of “accounts that were profitable for *each* of the four most recent quarters” may mislead the very investors the CFTC seeks to inform. *See* 75 Fed. Reg. at 3289 (emphasis added). As written, this requirement could understate the number of truly profitable retail FX accounts. A customer could have a very profitable trading year or two (or more) but still have an unprofitable quarter or two. On an overall net basis, the customer could have a healthy profit. Yet, for the quarter or two where the customer’s trading was not successful, the customer would be included in the calculation of those suffering losses.<sup>9</sup> This snapshot approach does not give a prospective customer an accurate description of the

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<sup>9</sup> The proposal refers to “accounts that were profitable” rather than accounts that suffered losses. A dormant account will therefore be allocated to the unprofitable category. That disclosure would not give an investor an accurate picture.

trader's overall actual experience. In short, the proposal's mandatory past customer performance summary may actually misinform prospective customers about past performance.<sup>10</sup>

### **III. REQUIRING ALL INTRODUCING BROKERS TO BE GUARANTEED BY AN RFED OR FCM IS TOO RESTRICTIVE**

The Commission proposes to require all IBs and all applicants for registration as IBs in connection with retail off-exchange FX transactions to enter into a guarantee agreement with an RFED or FCM. *See* 75 Fed. Reg. at 3287. As part of this effort, the Commission notes that it will prepare a new guarantee agreement providing that FCMs and RFEDs who guarantee performance by an IB are jointly and severally liable for all the IB's obligations under the CEA and CFTC regulations. This liability will extend to the solicitation of, and transactions involving, all retail FX customer accounts of the IB, as of the effective date of the guarantee agreement. *See id.* The Commission suggests that this requirement will prevent fraud by forcing RFEDs and FCMs to vet carefully the qualifications of persons who solicit business on their behalf and the practices those persons employ. *See id.* While the FIA supports this objective, it believes that the Commission may not have considered the ramifications of its proposal and respectfully requests that the Commission clarify the application of this rule.

The language of Proposed Regulation 1.10(j)(8) makes clear that an IB may not "simultaneously be a party to more than one guarantee agreement." *See* 75 Fed. Reg. at 3294. The Commission appears to be giving IBs a choice -- either surrender your independent IB status and agree to solicit business for a single RFED or FCM (in effect becoming a branch office of that enterprise) or retain your independence and solicit business for banks or overseas dealers. From the proposal, it is not clear whether the Commission intends to prohibit IBs that are guaranteed by an RFED or FCM from introducing retail FX business to banks or overseas dealers. FIA is not certain the Commission actually has the authority to prohibit IBs from soliciting customers for entities operating outside the CEA. In any event, FIA assumes the Commission intends that the RFED or FCM would be legally responsible for its guaranteed IBs' solicitations for the RFED or FCM alone, and not any of the IB's actions to find business for the bank or overseas competitors of the RFED or FCM. It would be grossly unfair, to say the least, to make the RFED or FCM responsible legally for the solicitations of IBs for their competitors. The Commission should clarify its intent in that regard.<sup>11</sup>

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<sup>10</sup> FIA also believes that the Commission should clarify that a single customer signature is all that is required for the mandatory risk disclosure. Requiring multiple signatures in different places in disclosure documents can lead to confusion and undue administrative costs.

<sup>11</sup> The need for an extra measure of clarity with the respect to the scope of an FCM's liability for its IBs is consistent with the Commission's history when it approved the FCM-IB guarantee agreement form in 1983. Then, the Commission adopted final rules containing the form language that purported to expand an FCM's

To the extent, the CFTC is proposing to preclude the operations of independent IBs, FIA urges the Commission to reconsider. The CFTC's proposed retail FX regulatory regime may be more than adequate to address the potential for fraud and sales practice abuses by IBs. The Commission's new rules should be implemented and tested in the market place before any applicable business model is banned. In fact, retaining the independent IB category may well help to protect customers because the CFTC's sales practice and antifraud rules are surely more stringent than those an independent IB would face if it only introduced business to banks and overseas dealers. Independent IBs also may perform a customer service by referring customers to one of several retail FX trading platforms depending on the needs of the customer. If all IBs must be guaranteed by a single RFED or FCM, and that RFED or FCM does not offer trading in a currency the customer wants to trade, the IB's ability to fulfill that customer's request would be comprised. Banning independent IBs would seem to be a harsh result that could lead to less customer choice and service, outcomes that do not appear to be consistent with the Commission's goals.

#### **IV. "NON-ECP" CUSTOMERS ARE A DIVERSE CLASS**

FIA understands the CFTC's regulatory scheme is intended to protect all retail customers, called non-Eligible Contract Participants. The ECP definition establishes high thresholds for determining who is a retail customer and who is not. As a result, the breadth of the non-ECP category is vast (and pending legislation may make scope of that category even broader). For example, an individual with \$100,000 in assets is generally quite different in terms of investment sophistication and experience from an individual with \$9.5 million in assets. Both individuals would be non-ECPs under the CEA, of course. But no one would expect both individuals to need generally the same types of protections from sales abuse and sharp practices.

FIA does not have a specific proposal in this regard. We would simply observe that as the CFTC finalizes its new regulations for protecting non-ECPs it should take into account the range of non-ECPs it is trying to protect and adjust its rules accordingly.

#### **CONCLUSION**

In 2008, Congress strengthened CFTC regulation of the retail FX business in an attempt to continue the pattern of improved business practices in this popular market. The CFTC has largely implemented its new authority with great skill. Its new regulations should add a substantial measure of additional protections for customers that enter into retail FX contracts with RFEDs or FCMs. FIA strongly supports those efforts, although it has taken issue with certain aspects of the Commission's proposals.

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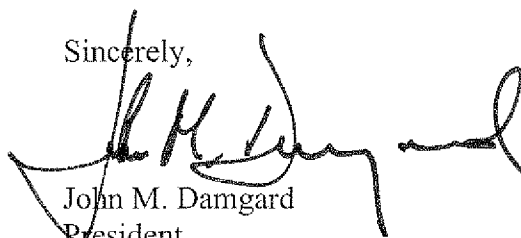
liability beyond financial obligations of its IBs. The Commission, however, never asked for comment on, or explained, this aspect of its IB regulations creating unnecessary confusion and legal uncertainty in this area.

David Stawick, Secretary  
March 22, 2010  
Page 11

In particular, FIA believes the CFTC should reconsider and at least defer action on its security deposit proposal. In our view, the current NFA standards, especially when buttressed by the Commission's new customer protection framework, will better serve the interests of customers than the proposed ten percent rule. At a minimum, we encourage the Commission to take the time to assess the effectiveness of the NFA security deposit levels in combination with the new retail FX safeguards the Commission will implement to protect the public.

Thank you for your consideration.

Sincerely,



John M. Damgard  
President  
Futures Industry Association

cc: Honorable Gary Gensler, Chairman  
Honorable Michael Dunn, Commissioner  
Honorable Jill E. Sommers, Commissioner  
Honorable Bart Chilton, Commissioner  
Honorable Scott O'Malia, Commissioner

Division of Clearing and Intermediary Oversight

Ananda K. Radhakrishnan  
Thomas Smith  
Jennifer Bauer  
William Penner  
Christopher Cummings  
Peter Sanchez

Division of Market Oversight

Richard Shilts

Office of the General Counsel

Dan Berkovitz

**From:** E Free <efreeman10@gmail.com>  
**Sent:** Monday, March 22, 2010 4:43 PM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** eddie <efreeman10@gmail.com>  
**Subject:** Regulation of Retail Forex

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Dear Secretary of the CFTC,  
Regarding RIN 3038-AC61, this e-mail is sent to oppose 10 to 1 leverage or even 50: 1 leverage from a 1 year Forex trader.  
I have been a forex trader for over 1 year. I am not rich with high resources. I usually trade with a few hundred dollars where most traders & the average citizen do not have a lot of money to trade and make a living at it. There is a big advantage to higher leverage that your organization is disregarding. This advantage is it provides a greater room to handle fluctuations in the market while maintaining a certain level of lots (in forex) where this level of forex can make a lot of money in the trending forex market. For example with a \$ 500 account & 500: 1 leverage, you can buy/sell 0.26 lots that leaves 170 pips to handle market fluctuations and still make \$ 577 in a 200 pip move. in the Yen.

Therefore, a higer leverage, when properly used, is a win-win situation for the average person who does not have a lot of money. Please consider this aspect of the proper use of leverage and allow for higher leverage. It is actually beneficial to the average trader. Please allow the trader, who is risking his won money to choose the leverage in a democratic society, instead of being forced to accept the ruling of the CFTC.

Sincerely,  
Edwin Freeman  
Forex Trader

**From:** Randy Best <randybest@hotmail.com>  
**Sent:** Monday, March 22, 2010 4:48 PM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** Marcello Ducille <ducillem@hotmail.com>  
**Subject:**

---

Dear Secretary,

I just wanted to thank you for saving me from myself. Nevermind that I have invested 2 years and \$20,000 in my Forex education. Nevermind that I still have NOT put any real \$ at risk. Nevermind that through my own efforts and perseverance I found a true mentor who is helping me on a slow/steady course to live trading. Through my own efforts and free will I am on my way to successfully going "live" in the Forex. I have managed to avoid the landmines that most retail traders fall prey to.....only to have my own "Socialist" government tell me what is good for me. We (successful traders) are independent people. I will overcome your social engineering as well as the fear and greed that ruin most traders. Go back to your small pathetic world that constitutes your beliefs. While our forefathers rollover in their graves watching our beloved Constitution being trampled upon illegally by agencies like yours, Congress, the Fed, and our President.....people like me are busy manifesting dreams through our God-given free will. Yes, the time will come for me to risk my own hard-earned money. I have risked it before with mixed results. Isn't this America ??? Not any more it isn't. I will succeed in the Forex. I will feel the success that I have worked so long and hard to obtain. I have had to go through many more changes psychologically to get to this point than you will ever personally experience... and there is much more to come. I am sad for you. You get to wake up tomorrow and be the limited person with the limited beliefs that you are.

I sincerely hope that my words are taken to heart by your agency. I am real. I have the heart and mind of a winner. I do not BLAME anyone for ANYTHING in my life. I learn from my mistakes....period. My words will certainly not change your course. Changing Forex leverage in the US will definitely change my course, but not my results. Thanks again, it gives me a warm and fuzzy feeling to know that my government will save me before I ruin my personal finances.

Sincerely, Randall Best

---

The New Busy is not the old busy. Search, chat and e-mail from your inbox. [Get started.](#)

**From:** Jorgensen, Chuck <Chuck.Jorgensen@yrclogistics.com>  
**Sent:** Monday, March 22, 2010 4:53 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

Identification Number:  
RIN 3038-AC61

I am writing to let you know I am extremely opposed to the 10:1 leverage proposal. If this is passed the forex business in the USA will cease to exist and everyone will start moving accounts overseas at a rapid pace. This switch will take billions of dollars from US Forex companies and put it overseas. Please do not pass the 10:1 leverage as it will cause lots of job losses as well as billions of dollars going to overseas accounts where the leverage would still be 100:1 or higher.

Chuck Jorgensen  
Reporting Analyst  
[chuck.jorgensen@yrclogistics.com](mailto:chuck.jorgensen@yrclogistics.com)

**From:** C.L. Kwan <clkwan@ieee.org>  
**Sent:** Monday, March 22, 2010 4:53 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

comments re: RIN 3038-AC61

The intention to protect retail forex traders from fraud is good. However, restricting leverage to 10:1 is totally unnecessary and does not serve the purpose of protecting retail forex traders from fraud. On the contrary, restricting leverage to 10:1 will force retail forex traders out of the US forex market and go offshore, resulting in less protection for the retail forex trader.

This could result in retail forex traders pulling their funds out of their brokerages en masse, forcing the brokerages to be insolvent and declaring bankruptcy.

This would result in many job losses, hurting the economy, reducing tax revenues (due to job losses and bankruptcies).

Reducing leverage to 10:1 is totally unacceptable.

Please let retail forex traders continue to have 100:1 leverage .

Chi L. Kwan

**From:** huntbrook@aol.com  
**Sent:** Monday, March 22, 2010 5:06 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** 'Regulation of Retail Forex'

---

Dear Secretary-

This is to request that in your consideration of RIN 3038-AC61, you do not reduce the leverage available to retail forex investors.

As a small investor, the margin requirements if the leverage goes down to 10:1 would be onerous, and keep us out of a good opportunity. Please do not do this - it would be throwing the baby out with the bathwater. As a small investor, we're not the ones who blew up the economy - please don't take away opportunity from us.

Thank you for your consideration.

Lisa Jennings  
Cincinnati OH

**From:** Evan EPS-90 <evan@sales180.com>  
**Sent:** Monday, March 22, 2010 5:07 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Leverage Change

---

I dont see how changing the leverage in Forex from 100 to 1 to 10 to 1 will benefit anyone this will force many traders to close there accounts including me. I dont have 10 times the capitol to continue trading my systems and strategies, much lost revenue for the United States too. I do have dual citizenship between Canada and United States that would give me another reason to move to Canada.

**From:** Steve@ForexTradingCoaches.com  
**Sent:** Monday, March 22, 2010 5:31 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

ID# RIN 3038-AC61

David:

I very much oppose the proposed regulations concerning Forex trading. Specifically I vehemently oppose the following proposed regulations:

1. Limiting leverage to 10:1,
2. Requiring all Forex Industry players to register with the FTC
3. \$20 million net cap requirement along with the additional volume-based minimum capital threshold.

I would like to think that we are all sophisticated enough that we know what we game we are playing and we know the rules. I voraciously oppose this regulation and feel it would destroy the business and livelihoods of far more traders than it would end up "protecting."

Please spend your time eliminating the scammers instead of passing sweeping regulations that affect everyone.

Thank you.

Best regards,

Steve Cook  
FOREX Trading Coaches  
<http://www.Forex-Trading-Coaches.com>  
[wade@forextradingcoaches.com](mailto:wade@forextradingcoaches.com)  
[steve@forextradingcoaches.com](mailto:steve@forextradingcoaches.com)

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**From:** Steve@ForexTradingCoaches.com  
**Sent:** Monday, March 22, 2010 5:32 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

ID# RIN 3038-AC61

David:

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Please spend your time eliminating the scammers instead of passing sweeping regulations that affect everyone.

Thank you.

Best regards,

Wade Scott  
FOREX Trading Coaches  
<http://www.Forex-Trading-Coaches.com>  
[wade@forextradingcoaches.com](mailto:wade@forextradingcoaches.com)  
[steve@forextradingcoaches.com](mailto:steve@forextradingcoaches.com)

\* Disclaimer - FTC Services, LLC is an educational company. FTC Services, LLC is not an advisory firm. The contents of this email are not to be construed as a recommendation to buy or sell. Trading in the off-exchange foreign currency market is risky. Only investors who are aware of the risks inherent in margined currency trading and accept this risk should use this information. FTC Services, LLC accepts no liability for losses a client might incur while trading foreign currencies.

**From:** Info@ForexTradingCoaches.com  
**Sent:** Monday, March 22, 2010 5:32 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

ID# RIN 3038-AC61

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Please spend your time eliminating the scammers instead of passing sweeping regulations that affect everyone.

Thank you.

Best regards,

FOREX Trading Coaches  
<http://www.Forex-Trading-Coaches.com>  
[wade@forextradingcoaches.com](mailto:wade@forextradingcoaches.com)  
[steve@forextradingcoaches.com](mailto:steve@forextradingcoaches.com)

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**From:** Matthew Zaner <matt@zaner.com>  
**Sent:** Monday, March 22, 2010 5:39 PM  
**To:** sharonglen5@bigpond.com; secretary <secretary@CFTC.gov>; Greg Bottitta <gbottitta@fxsol.com>; Michael Keene <mkeene@zaner.com>  
**Subject:** Confusing fx email

---

Dear Ms. Glen,  
The below email you reference was sent to you in error. My apologies for any confusion.  
Sincerely,  
Matthew Zaner  
CEO  
Zaner Group  
312-277-0102  
[matt@zaner.com](mailto:matt@zaner.com)

About Zaner:

For the past 25 years, Zaner has been helping futures, commodity and forex traders trade smarter, faster and easier. Zaner is an established, highly regarded award-winning execution and brokerage firm known for providing clients with exceptional service. We have been CFTC registered and an NFA member since 1982, and throughout the years have forged exclusive, custom relationships with multi-billion dollar partners. Which means you access opportunities from cutting-edge technology, memberships on the world's major exchanges, execution desks on all the world's premier trading floors, and operations in more than 14 countries.

In addition, Zaner futures, forex and commodities advisors have extensive trading, portfolio management and business experience. We pride ourselves on our high ethical standards, industry expertise and unique market insight. On average, our advisors have over 20 years of industry expertise. They've seen the market through good times and bad, and the knowledge gained over the years has proven invaluable. Each client, no matter the size of the account, receives the same honest, knowledgeable, award-winning personal service we have been famous for for 25 years.

Zaner is Member of: National Futures Association, National Introducing Brokers Association, Better Business Bureau, Illinois Chamber of Commerce & Registered with: CFTC.

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**From:** Sharon Glen [mailto:[sharonglen5@bigpond.com](mailto:sharonglen5@bigpond.com)]  
**Sent:** Saturday, March 20, 2010 3:36 AM  
**To:** [secretary@cftc.gov](mailto:secretary@cftc.gov)  
**Cc:** Joseph Trevisani  
**Subject:** Fw: RIN3038-AC61

Dear Mr Stawick,

I am forwarding this and another email to you for investigation. It appears that whoever sent this has been

collecting email addresses from the CFTC's Retail Forex comment file register. I will also forward it to Joseph Trevisani, at Fxsol.com in the US for him to also follow up.

This kind of behaviour is unethical and misrepresentative - the subject heading appears related to the CFTC's registers yet it has nothing at all to do with the CFTC. I have not opened either link, having a concern that there could be a security risk attached.

Please attend to this matter immediately.

Regards,  
Sharon Glen.

----- Original Message -----

**From:** Mike Keene

**To:** [mkeene@zaner.com](mailto:mkeene@zaner.com)

**Cc:** [gbottita@fxsol.com](mailto:gbottita@fxsol.com)

**Sent:** Saturday, March 20, 2010 4:08 PM

**Subject:** RIN3038-AC61

FXSOL UK:

<https://online.fxsol.co.uk/LiveApplication/?ref=ZAGR16>

**From:** no-reply@erulemaking.net  
**Sent:** Monday, March 22, 2010 5:58 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Public Submission for 2010-00456  
**Attach:** Public Submission for 2010-00456.zip

---

Please refer to the attached file.

24.ntv.txt

Please Do Not Reply This Email.

Public Comments on Regulation of Off-Exchange Retail Foreign Exchange Transactions  
and Intermediaries:=====

Title: Regulation of Off-Exchange Retail Foreign Exchange Transactions and  
Intermediaries

FR Document Number: 2010-00456

Legacy Document ID:

RIN: null

Publish Date: Wed Jan 20 00:00:00 EST 2010

Submitter Info:

first\_name lenny  
last\_name wharton  
address1 9110 elm ave  
city newaygo  
country United States  
us\_state MI  
zip 49337  
company

I have very limited funds to trade with right now.  
If leverage goes to 10:1 I would have to most of my  
savings account into my forex brokerage account where  
I would be putting more of my money at risk.  
Please leave the leverage where it is now.

**From:** william oguh <williamoguh@yahoo.com>  
**Sent:** Monday, March 22, 2010 6:09 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

The proposal not accepted . If this proposal should be granted, only Financial Institutions would remain in Forex trading which is unfair to beginners since it stops them from exercising their confidence and expertise. Great achievers should be traced back to the days of little beginnings and view how litte their beginnings were - that would be helpful in deciding the fate of other new beginners. Thanks. Williams Edozie Ogu

**From:** P K Allen <pkallen@hotmail.com>  
**Sent:** Monday, March 22, 2010 6:47 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

Dear Sir,

I am writing to express my opposition to the new bill **RIN 3038-AC61** proposing leveraging of forex trading be limited to 10 to 1. It is up to me to decide the risk I am willing to take not the government.

Please oppose this bill.

Thank you,  
Penny Allen  
Forex Trader

**From:** Borecky Tomas <Tomas.Borecky@atlas.cz>  
**Sent:** Monday, March 22, 2010 7:23 PM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** cftcfeedback@fxdd.com  
**Subject:** Regulation of Retail Forex

---

To Whom it May Concern.

I don't really understand why you will regulate small traders insted of huge speculator. Please don't do it. Should be better when you will keep an eye on brokers and make sure my money is safe. Thank you.

Regards

Tomas Borecky

**RIN 3038-AC61**

**From:** Careem McBean <careemmcbean@gmail.com>  
**Sent:** Monday, March 22, 2010 7:35 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** New Rules

---

I am emailing you to plead on the behalf of many traders in the forex market including myself. We would appreciate it if you didn't up the leverage in order to trade the forex market. It allows many traders like myself to be involved on the worldwide market. If you have to build your account from the ground up it helps to be able to use a higher leverage. Thanks, Careem

Romans 5:8

**From:** Lim Siew Bee <sblim1189@yahoo.com>  
**Sent:** Monday, March 22, 2010 8:36 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** FOREX leverage level

---

Dear Sir/ Madam,

I am strongly not support the new proposal to revise the the forex trade leverage level to 10:1.  
It definitely will give negative impact to the market.

Besides, May I find out from you for the reason of this proposal.

Thanks & Best Rgds,  
sblim

**From:** Steven J. Morales <stevenj.morales@yahoo.es>  
**Sent:** Monday, March 22, 2010 9:02 PM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** nytnews@nytimes.com  
**Subject:** concerned citizen

---

Dear Secretary Stawick,

I would have no interest in writing you except I find the public (" PR generated") outcry opposing your proposed FOREX regulations to be repugnant considering what our country has had to bear in the last 18 months.

I was surprised to read your Chairman was considering capitulating on the CFTC proposal when he testified before congress. The capitulation is not what is disturbing. It is the reasoning why the Chairman decided to "revisit" his proposed changes. Changing ones thoughts based on factual data is acceptable. Bowing to pure political

pressure and a well-planned battle, waged via professional PR firms is unacceptable.

The large industry leaders have exerted political pressure via Congressmen and Senators Collin C.

Peterson (Dem., Minnesota) and Rep. Jim Marshall (Dem., Ga.). , Senator Orin Hatch. The representatives cite the potential lost jobs and US clients trading in rouge regulatory environments as reason to not implement your proposed changes.

What these Representatives are unaware of is each member of the PAC opposing your measures has already moved their clients and JOBS! to these same regulatory regimes you/we are told to fear! How hypocritical. It is a scary thought Senators and Congressmen would issue

blind statements without fully exploring the reality of what they are saying.

I receive advertisements daily informing me I have a choice of where to open my accounts. I am offered an immediate option of transferring my account to these companies "offshore affiliate". Rather than express concern over these same regulatory umbrellas you and the public are told to fear from the PR campaigns, the advertisements EXTOLL the benefits of their new offshore entities.

I myself have been made aware of the impending changes in FOREX via mass mailings from FX brokerages urging me to oppose the new regulations as well via FX STREET.com. and other "FOREX" sites. I can actually "write " a pre formatted letter to you simply by hitting an accept button

and inserting my mail. I am not sure this qualifies as a legitimate letter.

I did not take the communications from the brokers or postings seriously until I read HEADLINES (March 18th, 2010) Wall Street Journal. The article sites FINRA intervention of SEC regulations. I could not believe the evidence presented in the article. I would have found it unthinkable as well as unconscionable a regulatory agencies would directly undermine, via back room deals, what they publicly purport to support.

However, the evidence in that article demonstrates the underlying basis for my communication.

The FX Chat boards are now mentioning the impending fears over the proposed CFTC reduction in leverage is ill founded.

The large FOREX brokerage houses are now communicating to their best clients and introductory channels the extensive PAC activity and Public Relations campaign opposing the change has worked very well.

According to communications posted on Chat boards and representations made to colleagues of mine directly, The NFA, held a secret non - public meeting with the largest FOREX brokers and committed to supporting the FOREX Brokers opposition to the CFTC changes or some watered down version of the bill. This in exchange for an easing of the all out war the Brokerages are waging against the regulators. Thus the NFA position paper.

The Brokers have already communicated to their best clients the pressure they have

brought via political pressure and a letter writing campaign has worked well.

Regardless of the final disposition of your decision, the SECRET NFA meeting in a NON PUBLIC FORUM is unethical, illegal, and reason the public in general should not have any reason to believe your agency is above sacrificing its political well being for what you purports your mission is.

Congress should investigate why you offer a public comment window, during which time you are secretly meeting with the same groups you purportedly are looking t regulate. The minutes and attendees of the secret NFA meeting should be

published and disclosed.

Those responsible for undermining the transparent communication required by law should be held accountable.

In a time when your administration promises full transparency and an end to the Wall Street back alley shenanigans; the actions of the CFTC/ NFA become more disturbing. Any public servant or agency willing to thumb their noses to the American taxpayer under the current environment is an agency that should be held accountable.

The public should have no expectations that your agency has any recall of the true nature of why financial system melted down. A. Professional Institutions utilizing leverage at a rate of 30-1 times. B. Lack of

oversight. C.Regulations watered down via political pressures. Sadly the public is asked to accept the average trader is more sophisticated than the professionals.

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The argument inexperienced non-professional clients are suitable to handle the leverage at any level is folly. The true genius of the entire argument presented by the PR firms on behalf of the FOREX industry is that to reduce leverage from 100-1 is somehow bad for business. The real question is how you allowed 100-1 to begin with. If you are going to allow 100-1 you might as well allow 1000-1 it has no statistical difference.

If you are looking for a true point of reference ask Mr. Gensler to phone his prior firm and inquire if Goldnam would

allow 100-1 leverage in the FOREX market.

Shame on the CFTC, the NFA for not having the courage to stand above politics and demand real data. Shame on Senator Hatch for communicating his concern for worrying about potential job loss when his constituent sends out PR messages announcing loud and clear they have already moved.

The most recent financial meltdown was a result of no responsible oversight, and allowing financial firms to implement rules in their own best interest. This lack of oversight was supported by the threat of lost jobs and markets moving elsewhere, if the foxes were not allowed to run the hen house. These are re cycled objections

utilized when no plausible evidence or case can be made to refute responsible oversight

What ever your decisions please do not cite lost jobs or the impact upon the industry as your reasoning. These are arguments are presented without data and without any factual basis.

The notion clients would have to deposit more funds that they could actually lose is designated risk capital or supposed risk capital. The argument is non-seneschal.

The comparison made by the brokers to other markets simply does not hold water. The other markets are traded on an exchange basis with transparent clearing. These firms opposing your proposal can take on unlimited risk. The reduction in

leverage insulates clients from having their de facto clearing agent absorb risk at 100-1. Has anyone given thought the real beneficiaries of leverage are the brokers?

The leverage cuts both ways. Have the regulators forgotten multi billion dollar institutions vaporized over night due to what has been determined excessive leverage at 30-1 times. The public is asked to swallow 100-1 as appropriate for non professionals. The NFA continually discusses the public interest and traditional measures by which the appropriate leverage is determined. The NFA would like to support the old guard. This argument is not only client centric. This is not about ensuring only client does not lose more than they have in their account. This is about ensuring the FDM does not absorb excessive leverage.

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<!--[endif]-->

The tax payer and public have learned the traditional old fashioned ways of measuring risk and leverage were inadequate and exposed the public to the ultimate risk. For any regulatory agency not to err on the side of extreme caution only demonstrates short memory and arrogance at having their old traditional club questioned and evaluated.

If the ultimate protection of clients is anticompetitive so be it. There is no evidence of anti competitive backlash.

The reality is the tough CFTC position will reinforce in clients minds the largest free market on the globe is watching. Are the PR machines so arrogant to assume the proposal was

put forth by the CFTC  
without a detailed analysis?  
If so we are in a worse  
position than could be  
imagined.

The public demands decisions are not the  
result of a few market participants, and  
their PR machines.

**From:** Mikhail Kostin <mikhail.kostin@gmail.com>  
**Sent:** Monday, March 22, 2010 9:03 PM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** cftcfeedback@fxdd.com  
**Subject:** Regulation of Retail Forex

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RIN 3038-AC61

This is my argument why reducing the leverage down to 10:1 is a disastrous idea. If my FOREX broker decides to leave the business (bankruptcy or whatever) I will have a little chance to recover my account, because the FOREX market is not regulated. To mitigate possible losses I would keep 2/3 of my trading account in a bank and only 1/3 is kept in the brokerage account. Position sizes are chosen as if all 100% of the account is available for trading. The 10:1 leverage will be too low to use this strategy, so traders would have to keep all the capital in the brokerage accounts which in turn means they can lose everything due to broker failure. If trading account is really big or other people's money used (moral responsibility) then only 10% of the trading account is kept with the broker. This is only possible with 100:1 leverage.

To summarize, if you want to reduce the leverage, make FOREX regulated first. Or better yet do not touch anything. Almost any interference from the government turns into a disaster. I know better how to run my business.

Mikhail Kostin, Ph.D.

**From:** Jeffery Moore <jefferymoore7@msn.com>  
**Sent:** Monday, March 22, 2010 9:19 PM  
**To:** secretary <secretary@CFTC.gov>  
**Cc:** cftcfeedback@fxdd.com  
**Subject:**

---

I highly oppose the leverage factor being changed from 100:1 to 10:1 this change will weigh very heavy on the profits for forex traders in the United States. I am requesting for the leverage factor to please stay at 100:1.

RIN 3038-AC61.

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Hotmail has tools for the New Busy. Search, chat and e-mail from your inbox. [Learn More.](#)

**From:** Felipe Mora <fmora@cable.net.co>  
**Sent:** Monday, March 22, 2010 9:55 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

Dear sirs,

I am writing to oppose to your proposal to change Forex leverage to 10:1.

First of all, I believe any person should have the freedom to select the best alternative suited to their own needs and possibilities.

Forex is indeed a high risk investment, for which anybody who wants to use it has to learn and practice to become a suitable and knowledgeable trader before investing any money. That is why brokers offer demo platforms and learning courses. A person who decides to enter the market without the necessary preparation will do it with a high or low leverage. (Maybe he does not even know what leverage is). A lower leverage will not necessarily deter the ignorant trader from making bad decisions.

For the small investor, the 100:1 (or more) leverage is the only possibility of being part of this magnificent trading instrument. Besides, since many other countries offer low leverages, regulating to 10:1 would make the American brokers totally uncompetitive and all of the small investors, Americans and from many different nationalities, would "fly" to other countries, taking all their money, which I believe is not insignificant.

American brokers are reliable and very well regulated, which makes them attractive to many traders across the world.

I am including the identification number RIN 3038-AC61.

Thank you for taking in consideration my opinion.

I hope I can continue using American brokers in the future.

Regards,

Felipe Mora  
Bogota, Colombia

**From:** Steve G <sjgallagher@ca.rr.com>  
**Sent:** Monday, March 22, 2010 10:05 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex leverage

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Secretary David Stawick,

I would like to express my deep displeasure regarding RIN 3038-AC61 and the provision to limit retail forex trading leverage to 10:1. I won't waste my time detailing why this is a poorly thought out idea since I don't believe my reasoned objections would make any difference. These "public comment periods" are, more often than not and now more than ever, a joke. I know many traders and they are all against it. I know many of the brokers, if not all of them, have formed a group to try and bring reason into the debate. I will be shocked if it does not happen anyway.

Shock me.

Steve Gallagher

**From:** James Rolston <rolsfam@marktwain.net>  
**Sent:** Monday, March 22, 2010 10:25 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** RIN 3038-AC61

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Dear Sir,

The restrictions you are imposing on the US traders and the ones you are looking to do RIN 3038-AC61 are not to our countries best interest or to the traders of this country....you put unfair disadvantage to us compared the rest of the world....please stop this...

James Rolston

**From:** Bart Mallon <bmallon@mallonpc.com>  
**Sent:** Monday, March 22, 2010 10:52 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** RIN 3038-AC61 (Comment Letter)  
**Attach:** Mallon P.C. Final Forex Comment (03-22-10).pdf

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Please see our attached comment.

Many thanks,

Bart Mallon, Esq.  
Mallon P.C.  
One Ferry Building | Suite 255 | San Francisco CA 94111  
Tel: 415-868-5345 | Fax: 415-493-0154 | [bmallon@mallonpc.com](mailto:bmallon@mallonpc.com)  
<http://www.hedgefundlawblog.com>

# MALLON<sub>P.C.</sub>

One Ferry Building  
Suite 255  
San Francisco, California 94111

Telephone: (415) 868-5345  
Facsimile: (415) 493-0154

March 22, 2010

## VIA ELECTRONIC MAIL AND COURIER

Mr. David Stawick  
Secretary  
Commodity Futures Trading Commission  
1155 21st Street, NW  
Washington, DC 20581

*Re: Request for Comment on Proposed Regulation of Off-Exchange  
Retail Foreign Exchange Transactions and Intermediaries*

Dear Mr. Stawick:

This letter is in response to the request of the Commodity Futures Trading Commission (the "Commission") in RIN 3038-AC61 (the "Release")<sup>1</sup> for comment on certain proposed regulations (the "Proposed Regulations") under the Commodity Exchange Act ("CEA")<sup>2</sup> as amended by the CFTC Reauthorization Act of 2008 (the "CRA").<sup>3</sup> The Proposed Regulations as drafted would establish requirements for, among other things, registration, disclosure, recordkeeping, financial reporting, minimum capital, and other operational standards with respect to retail off-exchange foreign currency ("forex") transactions.

Mallon P.C. is a law firm which represents a substantial number of clients who are domestic forex market participants and who would be directly affected by the Proposed Regulations. We appreciate the opportunity to comment on the Proposed Regulations, especially considering that the regulations, if adopted as proposed, would significantly affect the business of many of our clients. While we have discussed these views with our clients, and they share many of the same views, the comments expressed in this letter are our own.

### Overview of Proposed Retail Forex Regulations

The Proposed Regulations would, among other things, (i) require certain retail forex market participants to register with the Commission, (ii) require counterparties dealing in retail forex to increase the security deposit for forex transactions, (iii) establish certain net capital levels for forex counterparties, and (iv) require introducing brokers to retail forex transactions to operate pursuant to a guarantee agreement with only one forex counterparty.

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<sup>1</sup> Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries, Commodity Exchange Act Release RIN 3038-AC61, 75 Fed. Reg. 3281 (proposed January 20, 2010) (to be codified at 17 C.F.R. pts. 1, 3, 4, 5, 10, 140, 145, 147, 160, and 166).

<sup>2</sup> Commodity Exchange Act of 1936, 7 U.S.C. § 1 et. seq.

<sup>3</sup> Food, Conservation, and Energy Act of 2008, Pub. L. 110-246, 122 Stat. 1651, 2189-2204 (2008).

Letter to Mr. David Stawick  
 March 22, 2010  
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The landscape in which the Proposed Regulations were developed is important. Prior to the CRA, the Commission did not have an explicit grant of jurisdiction over the off-exchange spot forex markets<sup>4</sup> and there was, accordingly, little regulatory oversight of certain market participants. Without a mandate to require registration of such market participants, run-of-the-mill common law fraud proliferated<sup>5</sup> as regulators were impotent to stop these scams. While state laws were able to address many of these cases after the fact, the Commission sought to regulate the industry as a proactive means to prevent fraud. At the same time, many legitimate domestic forex businesses sought ways to distinguish themselves from the fraudulent players in the industry by *voluntarily registering* with the Commission as commodity pool operators ("CPOs"), commodity trading advisers ("CTAs"), introducing brokers ("IBs") and futures commission merchants ("FCMs").<sup>6</sup> These businesses, like many of the firms and individuals who have responded to the Commission's request for comments, fully appreciate the important role that regulatory bodies play in "cleaning up" the industry and making sure that bad actors do not continue to tarnish the names of hard working individuals who have helped to create a competitive and robust industry in the United States.

We agree with many of the Proposed Regulations and believe they serve important investor protection functions, however we are concerned that some of the Proposed Regulations will not protect investors and will have a deleterious effect on the United States forex industry. It is within this context, and with the goal of helping to create a considered regulatory regime that emphasizes both investor protection and the continued economic viability of the domestic retail forex industry, we make the following comments.

## **Registration of Forex Market Participants**

### Registration of Forex CPOs, CTAs and IBs

The Proposed Regulations require persons to register with the Commission as forex CPOs, forex CTAs, and forex IBs, as appropriate.<sup>7</sup> The Proposed Regulations also create a new registration category for retail foreign exchange dealers ("RFEDs") and require RFEDs to register as such with the Commission.<sup>8</sup> Certain employees of the foregoing registrants would be required to register with the Commission as associated persons ("APs"), as appropriate.<sup>9</sup> The registered firms and APs would also be required to become members of a registered futures association.<sup>10</sup> In addition to registration, Proposed Regulation 5.4 would require certain disclosure, recordkeeping and reporting requirements for forex CPOs and CTAs.

<sup>4</sup> See generally Release at 325 (citing to, most importantly, *Zelener and Erskine*).

<sup>5</sup> See Release at 3286, n. 44 (Between December 2000 and September 2009, 114 forex-related enforcement actions were brought by the Commission on behalf of more than 26,000 customers).

<sup>6</sup> These terms are defined in Section 1a of the CEA. With respect to groups who engage in only forex transactions, such firms will be defined under Proposed Regulation 5.1, which makes reference back to Section 1a of the CEA.

<sup>7</sup> Proposed Regulation 5.3(a)(2), Proposed Regulation 5.3(a)(3), and Proposed Regulation 5.3(a)(5).

<sup>8</sup> Proposed Regulation 5.1(h)(1) and Proposed Regulation 5.3(a)(6).

<sup>9</sup> See, e.g., Proposed Regulation 5.3(a)(1)(ii) and 5.3(a)(2)(ii).

<sup>10</sup> Proposed Regulation 5.22.

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We broadly believe that requiring forex CPOs, CTAs, and IBs to register with the Commission is reasonable.<sup>11</sup> It is clear that the standards to operate as a Commission registered firm and National Futures Association ("NFA") Member Firm are high. In order to complete registration, each firm needs to designate at least one person as an AP/Principal, and that person needs to meet certain proficiency requirements,<sup>12</sup> background checks, and other investigations into the person's fitness to provide services to customers.<sup>13</sup> Once registered, forex CPOs and CTAs are generally required to have their disclosure documents reviewed by the NFA prior to soliciting customers.<sup>14</sup> These measures provide both the Commission and the NFA with ample opportunity to review firms and individual applicants. Once registered, Member Firms will be required to implement recordkeeping and compliance programs under both Commission regulations and NFA Rules.<sup>15</sup> In addition to self-examination and compliance mandates, NFA Member Firms are subject to routine audit and the NFA has made it clear that it intends to heavily monitor Member Firms involved in the retail forex industry.<sup>16</sup> It is our belief the foregoing measures are sufficient to achieve the goal of investor protection while remaining within with the Commission's statutory duty to utilize the least anti-competitive means possible.

## Lower Leverage Requirement

The heavily criticized Proposed Regulation 5.9 requires RFEDs and FCMs engaging in retail forex transactions to collect from the retail customer a security deposit of ten percent of the notional value of the transaction. The regulation would also require the RFED or FCM to collect an additional security deposit or liquidate the position if the account value drops below the 10:1.<sup>17</sup> The Release cites a number of reasons for limiting leverage including: (i) extreme volatility of the forex markets; (ii) potential customer liability for losses if positions are not closed out; (iii) counterparty risk; and, (iv) current and proposed margin requirements by other regulatory bodies, including FINRA.<sup>18</sup> It is unknown if the Commission spoke with any industry participants such as FCMs or forex customers when considering this provision.

We strongly oppose Proposed Regulation 5.9. We believe that reducing leverage for retail forex transactions to 10:1 will not serve to protect customers and will likely, instead, harm the domestic forex industry. Many of the reasons cited by the Commission for the reduction of leverage are simply ill-founded and have previously been examined by the NFA.<sup>19</sup> We believe that the Commission should not pass the proposed regulation as written because the NFA's current leverage requirement adequately

<sup>11</sup> With respect to the new RFED designation and registration requirement, we do not have any specific opinions and understand the reasoning behind the new designation.

<sup>12</sup> See NFA Rule 401(a) (requiring the Series 3 Exam for a variety of members), as well as NFA Bylaw 301 (requiring the Series 34 exam for Member Firm APs engaged in the off-exchange retail forex markets).

<sup>13</sup> Fingerprint cards are submitted by all APs to the NFA and are run through an electronic FBI database. Form 7-R and Form 8-R require firm and AP applicants, respectively, to provide background information on prior regulatory issues which may indicate unfitness. The NFA may, in certain instances, contact other regulatory bodies regarding the fitness of an applicant.

<sup>14</sup> This process will usually take several weeks of discussion between the firm and the NFA and is usually facilitated by the Member Firm's attorney. Forex IBs face different requirements as detailed later in this comment.

<sup>15</sup> See generally Regulation 4.23, Regulation 4.33 and NFA Rule 2-9 (requiring yearly self-examination).

<sup>16</sup> Unofficial discussion by NFA panelists on March 2, 2010 at the CPO/CTA Regulatory Seminar in Chicago.

<sup>17</sup> Proposed Regulation 5.9(b).

<sup>18</sup> See Release at 3290-3291.

<sup>19</sup> See generally February 23, 2009 NFA letter to the Commission regarding Forex Security Deposits.

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protects investors and it is clear that there are serious anti-competition issues with the proposed regulation.

## NFA Section 12 Provides Greater Leverage

Proposed Regulation 5.9 was promulgated notwithstanding that the NFA just recently implemented a rule, approved by the Commission on November 30, 2009, requiring leverage for Forex Dealer Members ("FDMs") of 100:1 for major currencies and 25:1 for non-major currencies.<sup>20</sup> In proposing the rule change (in which the NFA actually *increased* the leverage allowances), the NFA took a considered approach to the issue. The NFA (i) researched then current FCM and FDM practices with respect to leverage, (ii) researched the practices of other industry groups, (iii) solicited comments from FDMs on proposed rules, (iv) discussed the issue with an FDM advisory committee, and (v) independently investigated the issue.<sup>21</sup> In proposing the leverage rule, the NFA stated that it "believes that the amendments [100:1 and 25:1 leverage] are the best way to address NFA's customer protection concerns with certain FDMs' use of leverage."<sup>22</sup> The NFA further stated that:

Based on our experience with FDM practices, including that most FDMs use systems that liquidate customer positions before they reach a negative balance, *NFA believes that the 1% and 4% security deposit requirement amounts remain sufficient at this time to protect against financial harm to FDMs and their customers even though they are significantly lower than margin requirements for on-exchange equivalents.*<sup>23</sup> [emphasis added]

We strongly agree with the NFA's current leverage requirements. We believe that the NFA took the appropriate time and care necessary to properly research this issue and that significant deference should be given to the NFA's margin requirements for Commission registrants.

## Unprecedented Industry Resistance to Lower Leverage

As of March 22, 2010, the Commission published on its website almost 9,000 comments. These comments were prepared and submitted by all types of participants within the retail forex industry including: forex investors, market participants such as forex CPOs, forex CTAs, forex IBs, FCMs, FDMs, and two newly formed coalitions - the Forex Exchange Dealers Coalition and the IB Coalition. The comments were overwhelmingly against leverage reduction and a majority have cited a number of reasons including: (i) liberty/freedom to contract; (ii) job loss from trading going overseas;<sup>24</sup> and, (iii) lack of protections to domestic investors in offshore jurisdictions.

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<sup>20</sup> Id.

<sup>21</sup> Id.

<sup>22</sup> Id.

<sup>23</sup> When the NFA wrote the referenced letter, FDMs were only required to maintain minimum capital of \$250,000 which is significantly less than the current NFA requirement of \$20 million (or more under certain circumstances) minimum net capital.

<sup>24</sup> We believe that one of the more appropriate comments in this respect came from Utah Senator Orrin Hatch, letter dated March 2, 2010, who stated, "If all developed-country regulators adopted common leverage requirements, the U.S. industry might be able to remain competitive under such a rule, but absent such standardization, the United States is at risk of losing jobs from this proposed regulation."

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We share the views expressed in many of the comments, especially with respect to the viability of the forex industry in the United States if lower leverage is required. As many comments noted, if lower leverage is instituted, customers will simply move their accounts to offshore brokers who provide leverage of 200:1 or more. It is common knowledge that these offshore brokers can be un reputable and may actually provide investors with fewer safeguards than domestic brokers who are (and will continue to be) subject to oversight by both the Commission and the NFA.

## **Net Capital Requirements**

Proposed Regulation 5.7 requires each FCM engaged in retail forex transactions and each RFED to maintain a certain minimum net capital. The net capital requirement would require firms to maintain the greater of: \$20 million; \$20 million plus 5% of the total retail forex obligation in excess of \$10 million; any amount required under Commission Regulation 1.17; or amounts required by a self regulatory organization of which the FCM or RFED is a member.<sup>25</sup> The purpose of these requirements is to protect retail customers in the absence of bankruptcy protection for segregated funds by making sure that FCMs and RFEDs will be able to remain solvent.<sup>26</sup>

We believe that absent bankruptcy protection for segregated funds, high net capital requirements are the best way to protect the assets of retail investors. We do note, however, that high net capital requirements limit the groups who are able to participate as principals in these markets.

## **Introducing Broker Guarantee Agreement**

Proposed Regulation 1.10 requires forex IBs to enter into a guarantee agreement with a RFED or FCM in connection with retail off-exchange forex transactions.<sup>27</sup> The Commission will prepare a new Part C guarantee agreement to the Form 1-FR-IB which, according to the Release, will make FCMs and RFEDs jointly and severally liable for all obligations of the IB with respect to the solicitation of, and transactions involving, all retail forex customer accounts of the IB entered into on or after the effective date of the guarantee agreement. The Commission believes that the guarantee requirement serves the public's interest by creating a marketplace where improper practices by IBs are discouraged while still permitting FCMs and RFEDs to make use of outside salespeople.

We strongly disagree with Proposed Regulation 1.10. We believe it will effectively eliminate almost all forex IBs and put a number of honest and ethical forex IBs out of business. While it would be true that RFEDs and FCMs would still be able to utilize outside sales agents, in practice RFEDs or FCMs are not going to take on the risk of guaranteeing forex IBs.

We also cannot support this proposal because we believe that there is strong oversight of forex IBs and that registration will further weed out unscrupulous players. As we discussed above, the

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<sup>25</sup> See Release at 3315.

<sup>26</sup> See Release at 3290 ("The Commission recognizes that the retail forex obligation is not an equivalent substitute for the segregated funds regime, which cannot be replicated in the context of off-exchange retail forex trading. Unlike segregation of customer funds deposited for futures trading, such amounts would not be provided any preferential treatment to unsecured creditors in a bankruptcy, and would not be held in separately titled accounts under the CEA.").

<sup>27</sup> See Release at 3287.

Letter to Mr. David Stawick  
March 22, 2010  
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NFA is tasked with significant oversight responsibilities and does not take this mandate lightly. While a forex CPO or CTA may be able to become initially registered within a matter of weeks (assuming the firm and principals have clean regulatory histories), a forex IB application may take three to six months or longer to be approved. Also, unlike forex CPOs and CTAs, the NFA requires forex IBs to have robust Anti-Money Laundering procedures, Business Continuity Plans and other compliance policies and procedures in place prior to registration. During the IB registration process the NFA examiners thoroughly review an applicant's background and operating procedures. Additionally, the NFA requires independent IBs to maintain a \$45,000 net capital requirement and to submit financial information on a semi-annual basis.<sup>28</sup> In our opinion this existing regulatory framework of review procedures and net capital rules is more than sufficient to ensure investor protection.

Furthermore, we concur with a number of commenters who have noted that there are fairness concerns *vis-a-vis* introducing brokers to on-exchange traders. We believe that the Commission can achieve its goal of investor protection through less anti-competitive means.

#### Grandfathering Provision Should be Added

In the event the Commission adopts the proposed regulation as drafted, we believe the Commission should provide a grandfathering provision for current forex IBs who would be put out of business if the proposed regulation was passed as currently written. Additionally, the Commission should clarify the manner in which independent IBs are treated if they make introductions to both exchange traded futures products in addition to retail forex.

#### **Other Issues**

##### Technical Revisions

The Proposed Regulations include a number of revisions to current Commission regulations which are necessary from a technical perspective to ensure the new regulations are properly implemented within the Commission's statutory framework. We agree that technical adjustments to current rules are necessary and applaud the Commission for trying to streamline regulation as much as possible.<sup>29</sup> Certain technical aspects of the rules, however, should be revised with appropriate industry input.<sup>30</sup> Additionally, any adopted leverage regulation will likely necessitate a change to certain provisions which currently reference the NFA leverage rule.<sup>31</sup>

##### Disclosure Document Risk Statements

Proposed Regulations 4.24 and 4.34 provide certain risk disclosure statements which must be included at the beginning of forex CPO and CTA disclosure documents. We completely understand the purpose of this requirement and we also understand that this practice would mirror the current requirements for CPOs and CTAs. However, we do not believe that consumers actually read long

<sup>28</sup> See NFA Financial Requirements, Section 5.

<sup>29</sup> See, especially, Release discussion with respect to Proposed Section 5.

<sup>30</sup> See, especially, comment letters from Global Futures & Forex, Ltd., dated March 9, 2010, and Rosenthal Collins Groups, LLC, dated March 8, 2010.

<sup>31</sup> See, e.g., proposed changes to Regulation 4.7(a)(1)(v)(B), Regulation 4.12(b)(i)(C), and Regulation 4.13(a)(3)(ii).

# MALLON<sub>P.C.</sub>

Letter to Mr. David Stawick  
March 22, 2010  
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paragraphs of legal disclaimers in large capital letters. In the future, the Commission should consider a succinct bullet point list. We believe that consumers are more likely to read and understand information in such format.

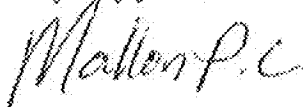
## Regulation 5.5(e)

Proposed Regulation 5.5 would require FCMs, RFEDs and forex IBs to provide retail forex customers with a risk disclosure statement similar to the statement currently required for customers engaging in on-exchange trading. Proposed Regulation 5.5(e) would additionally require these firms to disclose additional information which is not required to be disclosed for on-exchange trading.<sup>32</sup> We believe that Proposed Regulation 5.5(e) should not be deleted because it would not further any true investor protection and would likely be anti-competitive.

## **Conclusion**

The proposed rules seek to develop a comprehensive regulatory structure for the off-exchange retail forex industry. We have provided the Commission with these comments in the hope of helping to create a robust but appropriate regulatory environment while preserving the industry's ability to succeed in a global forex marketplace. We appreciate the opportunity to comment on the Release. If you have any questions regarding this letter, please contact the undersigned at 415-868-5345.

Very truly yours,



Mallon P.C.  
Bart Mallon

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<sup>32</sup> Proposed Regulation 5.5(e) generally requires that the risk disclosure statement include (i) the number of non-discretionary retail forex accounts maintained by an RFED or FCM, (ii) the percentage of such accounts that were profitable for each of the four most recent quarters, and (iii) a statement that past performance is not necessarily indicative of future results.

**From:** no-reply@erulemaking.net  
**Sent:** Monday, March 22, 2010 11:09 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Public Submission for 2010-00456  
**Attach:** Public Submission for 2010-00456.zip

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Please refer to the attached file.

Please Do Not Reply This Email.

Public Comments on Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries:=====

Title: Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries

FR Document Number: 2010-00456

Legacy Document ID:

RIN: null

Publish Date: Wed Jan 20 00:00:00 EST 2010

Submitter Info:

first\_name Ted  
last\_name Peterson  
address1 2106 Park De Ville PL.  
city Columbia  
country United States  
us\_state MO  
zip 65203  
company na

Dear CFTC:

Please do not adopt the 10 to 1 leverage rule for retail foreign exchange.

--This will make it harder for me to diversify my balance across different brokers.

--This will make it harder for me to diversify my risk across multiple trades.

--This will either force traders into more illiquid forex futures or unregulated overseas brokers.

--New traders will lose more money just to learn the ropes.

--Forex futures aren't subject to this rule. Why is that?

--Why is FINRA and the CFTC trying to enact regulation that oversteps the NFA? How much experience do you have making retail forex regulations like this, really? So far, recent CFTC regulation has been sensible, making spot forex more like futures, but this rule doesn't make sense.

--This regulation wouldn't protect against fraud in the least.

--The only parties that benefit are big forex banks, who wouldn't be subject to the 10 to 1 leverage rule. And the CFTC of course benefits, taking a small cut of every futures transaction.

--Why do you have to go and change everything for the 8 million strong retail forex market? ?U.S. banks and firms are the ones who are over-leveraged, so why pick on small retail traders, which comprise 2% of the entire forex market? ?Don't retail traders still play a useful role?

--Finally: ?Leverage doesn't equal risk. Say I had 20 open trades, and risked an aggregate of 2% total among the 20 positions. This rule means I'd have to put up 4x more money. STP orders manage risk, not leverage, so what's the use of this rule? It doesn't even make sense. Duh.

--Where did the 10 to 1 and 4 to 1 number even come from?

Big U.S. banks are the ones over-leveraged by a factor of 7. If you're trying to make a one-world currency, just do that, and stay out of the "over-regulation" market. ?Reduced volatility will eventually make traders move to greener markets.

39.ntv.txt

Sincerely,  
?Ted L. Peterson

**From:** Elikan Friedman <elikan\_friedman@hotmail.com>  
**Sent:** Monday, March 22, 2010 11:13 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of retail Forex RIN 3038-AC61

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In relation to this Regulation as a trader of the Forex Market, I must say that in my case for the type of long-term negotiations, I think that the implementation of this type of regulation for transactions I use to make is good, however I think that a strict provision of 10:1 leverage globally may be counterproductive, would be more appropriate to have a flexible regulation between 100:1 maximum to 10: 1 at least subjected to the trader criteria, to allow support different operational strategies in a secure, productive and transparent way. I not expected to give my opinion on this matter, because I believe that this type of regulation does not affect me, however given the clumsiness applied to the FIFO rule, which harms greatly to all traders in all transactions in currencies based on the dollar, I would like that my voice would be considered at this time, and also I would like to request the revision of FIFO rule, because there is no compensation at all in the application in such cases, I would just like to note on a small example the big error made in the application of that rule on foreign exchange transactions based on the dollar.

Contract long, bought at USD/JPY 123.00 and sold at USD/JPY 85.00, that implies a 3800 pips market movement, but at a pip value of approx. 1/0.85 at sell time, means a **loss of 4470 pips at a unit value pip**. Contract long, bought at USD/JPY at 85.00 and sold at USD/JPY 123.00, that implies also a 3800 pips market movement, but at a pip value of approx. 1/1.23 is only a **gain of 3089 pips at a unit value pip**, not enough to cover the loses of the forced operation of selling the "bad" contract first, and then buy a new one again at a "better price".

There is a huge difference, ¿Where is the FIFO compensation? , ¿ Was this rule imposed to make the traders lose more?, ¿Did you not realize this?. The FIFO standard is fair only in currencies that are not based on the dollar, at a constant pip value; the solution is not LIFO, the real solution is to let the traders decide which contract they want to sell first.

The same case is with the leverage, let the traders decide the leverage in a range and make that all FDM must publish a **clear** note about the risks implied in such decision and also they must sell a proportionally small lot size for each level of leverage taken, in this way for example:

For a 100:1 leverage, a lot size standard of 1:10, means that for a 10.000 account a 1.000 lot size; and for a 10:1 leverage a 100 lot size, this would be fine for both, traders and FDMs; evidently a lower leveraged account is better and safer for the traders in margin call cases, but with a proper lot size it would be also a good business for the FDMs.

Thank you for letting express my opinion at this time.

ELIKAN FRIEDMAN MATELUNA

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**From:** CDC <robertstarrett@comcast.net>  
**Sent:** Monday, March 22, 2010 11:14 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

I am writing regarding the proposed margin rule changes for retail traders. I will keep this short as I expect you have gotten much comment.

Like many others, in this recession, I have no work and no benefits as I am self-employed. My business is almost non-existent anymore because of the recession. Luckily, I am able to support myself because I am proficient at trading the foreign exchange. I don't make a lot, I don't have a big account, but I get by. If this rule goes into effect, I am out of business. I, like many others, cannot trade anymore if these requirements go into effect. I don't have the capital. You would be taking away what little I have left to count on as income. Those who have benefited from the abuses that we have seen on Wall street can continue and I would be out of the market, out of work and out of money, like so many others.

I hardly think it is appropriate in these economic times to take away the opportunity of so many to make at least some income. You will be driving me out of the market, you will be driving business away from U.S. firms to overseas firms. The last time I checked, my broker had 10 job openings posted on their web site. I suspect that this applies is true of other U.S. brokers as well.

It is a bad idea when the economy is as it is today. Please consider this as you consider the proposed rule change.

I would request that my address and phone number not be published.

Sincerely,

Robert Starrett  
760 Albion Street  
Denver, Colorado 80220  
303-733-5075

**From:** efexco@hotmail.com on behalf of  
EFEXCO CIA. LTDA. <admin@efexco.com>  
**Sent:** Monday, March 22, 2010 11:15 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of retail Forex RIN 3038-AC61

---

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Thank you for letting express my opinion at this time.

ELIKAN FRIEDMAN MATELUNA

### **EFEXCO CIA. LTDA.**

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Telf. 593-2-2909069 / 593-2-2906098  
Quito - Ecuador  
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**From:** festus760@yahoo.com  
**Sent:** Monday, March 22, 2010 11:22 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Public Comment Form

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Below is the result of your feedback form. It was submitted by  
(festus760@yahoo.com) on Monday, March 22, 2010 at 23:21:59

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commenter\_subject: Regulation of Retail Forex

commenter\_frdate: January 20, 2010

commenter\_frpage: 3282

commenter\_comments:

I am writing regarding the proposed margin rule changes for retail traders. I will keep this short as I expect you have gotten much comment.

Like many others, in this recession, I have no work and no benefits as I am self-employed. My business is almost non-existent anymore because of the recession. Luckily, I am able to support myself because I am proficient at trading the foreign exchange. I don't make a lot, I don't have a big account, but I get by. If this rule goes into effect, I am out of business. I, like many others, cannot trade anymore if these requirements go into effect. I don't have the capital. You would be taking away what little I have left to count on as income. Those who have benefited from the abuses that we have seen on Wall Street can continue and I would be out of the market, out of work and out of money, like so many others.

I hardly think it is appropriate in these economic times to take away the opportunity of so many to make at least some income. You will be driving me out of the market, you will be driving business away from U.S. firms to overseas firms. The last time I checked, my broker had 10 job openings posted on their web site. I suspect that this applies to other U.S. brokers as well.

It is a bad idea when the economy is as it is today. Please consider this as you consider the

proposed rule change.

commenter\_name: Robert Starrett

commenter\_withhold\_address\_on: ON

commenter\_address1: 760 Albion Street

commenter\_city: Denver

commenter\_state: Colorado

commenter\_zip: 80220

commenter\_phone: 303-733-5075

-----

**From:** jeffrey harris <jeffreyw712000@yahoo.com>  
**Sent:** Monday, March 22, 2010 11:35 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** leverage

---

I would like to add my voice to the opposition of moving the leverage to 10:1. I do not see how that will be of benefit to anyone trading the forex market.

Jeff Harris

**From:** John Pope <jspope326@yahoo.com>  
**Sent:** Monday, March 22, 2010 11:42 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

RIN 3038-AC61

I strongly oppose the CFTC's proposed change to limit retail forex traders' leverage to 10-to- 1. I believe this will do much more harm than good.

I speak from experience. I have actively traded in the forex markets for a number of years and have worked for a large forex website. In addition, I have considerable experience in working with government regulations and policies from my military background. Among other things, I spent three years in an inspector general's office and have seen my share of good and bad policy. Unfortunately, this certainly belongs in the latter category.

At 100-to-1 leverage, traders can open smaller accounts and diversify their approach by trading multiple currencies and strategies. The same traders will have to add significant funds to their accounts if the new rules are enacted. Some will go into debt or use funds they cannot afford to lose. Many traders rely on their forex profits as a source of part-time or even full-time income. With unemployment hovering around 10%, this income will not be easy to replace.

Moreover, many U.S. based forex businesses will shrink or completely fold if 10-to-1 becomes the new maximum. Brokers, introducing brokers, data vendors, educators and others could join the growing ranks of the unemployed.

Thousands of traders have already written you with similar concerns. The feedback on this issue has been very close to 100% in opposition to 10-to-1. Please remember your role as public servants. Listen to those you serve and preserve the well-being of the U.S. forex industry and diligent forex traders everywhere by keeping the leverage at 100-to-1.

Respectfully,

J.S. Pope

**From:** Jeff <jeff@sasser.info>  
**Sent:** Monday, March 22, 2010 11:59 PM  
**To:** secretary <secretary@CFTC.gov>  
**Subject:** Regulation of Retail Forex

---

Dear Commodity Futures Trading Commission (CFTC),

I would like to voice my opinion your proposed regulation "RIN 3038-AC61".

I support your proposed regulation of the Forex market "**EXCEPT**" for the 10:1 leverage aspect. I don't support the 10:1 leverage proposal.

I feel that the leverage should be between me and my broker.

Thank you very much.

Jeff Sasser

[jeff@sasser.info](mailto:jeff@sasser.info)